



Asia-Pacific
Economic Cooperation

2007/SOM3/EC/041

Agenda Item: 1

Chinese Taipei's Checklist Report-Back

Purpose: Information
Submitted by: Chinese Taipei



**Economic Committee Meeting
Cairns, Australia
28-29 June 2007**

Chinese Taipei's Checklist Report-Back

This update report is to document some major developments and changes since Chinese Taipei's Checklist self-assessment last September.

I. Regarding the adjustment of the integrated development policies

As Chinese Taipei's economy recovered quickly and maintained its stable growth trend after the bursting of the global dotcom bubble in 2001, the socio-economic environments at home and abroad, however, have undergone rapid and dramatic changes in recent years. The Conference on Sustaining Chinese Taipei's Economic Development (COSTED) was convened on July 27-28, 2006 (<http://www.cepd.gov.tw>) and its purpose was to gather ideas from all quarters on long-term, structural, and contentious administrative issues, and to that end 175 representatives from the executive and legislative branches of government as well as from all areas of the private sector were invited to participate.

In accordance with the conclusions reached at the COSTED, the government will reinforce Chinese Taipei's economic environment by establishing a complete social security system, enhancing industrial competitiveness, strengthening financial reform, improving global deployment and cross-strait economic relations, and upgrading government efficiency. The following are some of the key "consensuses" resulting from the COSTED:

- (1) Regulations governing labor contracts, wages, and working times (including part-time working hours) should be reviewed.
- (2) A favorable environment for the attraction of high-level overseas professionals should be built up, and better conditions should be offered to attract foreign students to study and do research in Chinese Taipei.
- (3) Legal restrictions on the recruitment of high-level foreign professionals should be relaxed and "Regulations Governing the Government and Corporate Recruitment of High-level International Technological Research Personnel" should be enacted as quickly as possible; in addition, an administrative and supervisory committee for recruitment should be established to set annual recruiting quotas for three years, with follow-up review every six months. The initial targets should be software, communications, and optoelectronic specialists.
- (4) A "Renewable Energy Development Act" should be passed as soon as possible.
- (5) A fair environment favorable to financial consolidation should be established, and the relaxation of restrictions on the establishment of new financial holding companies and bank branches should be considered.
- (6) The relaxation of restrictions on Mainland Chinese coming to Chinese Taipei for

business activities should be considered, and the promotion of tourism in Chinese Taipei by people from the Mainland should be continued.

- (7) Implementation of the Mainland Chinese investment policy should be continued under the precondition of effective risk management.
- (8) The orderly implementation of cross-strait financial dealings should be carried out under the preconditions of assured national sovereignty and security as well as the establishment of a financial supervisory mechanism.
- (9) Direct cross-strait transportation links should be pursued, under the preconditions of assured national sovereignty and security, in an orderly fashion.
- (10) An independent anti-corruption agency should be established to carry through with the clean-government policy.
- (11) To enhance government efficiency, the legislative process for the "Organic Law of the Executive Yuan" revision should be completed and a "Total Personnel Quota for Central Government Agencies Act" should be enacted as soon as possible.
- (12) Participation in the regulatory process by those subject to regulation should be reinforced, and they should be encompassed, to an appropriate extent, in the regulatory impact analysis (RIA) mechanism.
- (13) A strategy for the development of non-bank financial institutions should be formulated, and promotion of the enactment of a "Financing Company Act" should be accelerated.
- (14) The legislation of a "Limited Partnership Act" should be accelerated and the establishment of a legal environment for diversified corporate organizations should be promoted.
- (15) Laws related to the "Employment Services Act" should be revised so as to relax the hiring conditions and simplify entry, exit, and residence requirements for foreign professionals, and unnecessary documentation should be eliminated.

To address the challenges of intensifying international competition and act upon the conclusions of the COSTED, the Cabinet has formulated the "Economic Development Vision for 2015" and mapped out its "First-Stage Three-Year Sprint Program" for the period 2007-2009 (<http://www.cepd.gov.tw>). This initiative involves the re-examination and adjustment of socio-economic systems and development directions, with the aim of advancing toward a "prosperous, just, sustainable and beautiful Chinese Taipei" in 2015. It will be implemented in stages under three sequential "Three-Year Sprint Programs," and will pursue "big investment and big warmth" as the main theme of policy implementation. Five separate packages of measures for industrial development, financial markets, industrial manpower, public construction, and social welfare will be implemented on a stage-by-stage basis.

"Big Investment" connotes the prioritization of investment in Chinese Taipei, with an

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all-out effort to increase domestic investment and create job opportunities. And it targets removing investment barriers and creating favorable production, living, and ecological environments, to induce local enterprises to stay rooted in Chinese Taipei, overseas Chinese businesses to return home, and foreign companies to invest in Chinese Taipei. On the other hand, "Big Warmth" connotes the prioritization of care for the disadvantaged, with sights set on reducing the urban-rural divide and narrowing the gap between rich and poor. And its targets are to strengthen care for the disadvantaged and the elderly, and to balance urban-rural development, so that the disadvantaged and people living in remote areas will be able to feel the warmth of government concern for their welfare.

In particular, Chinese Taipei would like to pinpoint a specific development strategy—establishing Free Trade Zones (FTZs)(<http://www.taiwanftz.nat.gov.tw>). Free trade zones take advantage of the "within physical territory, but outside the customs territory" concept to carry out the liberalization of trade administration and use logistics to power manufacturing via the simplification of customs procedures, the provision of tax incentives, and the convenient inward and outward flow of personnel and funds. The goal is to create a better operating environment and pursue greater trade opportunities for manufacturers. Free Trade Zones can also serve as powerful market-development tools for international enterprises.

On the other front, Chinese Taipei has been striving to further the goals of trade liberalization and facilitation and been able to make significant progress. In particular, Chinese Taipei recognizes that regulatory reform is one of the important elements in the promotion of open and competitive market. Therefore, we fully support the need to develop the *APEC-OECD Integrated Checklist on Regulatory Reform* for the self-assessment on regulatory, competition, and market openness policies so that member economies may use it as a guiding tool to evaluate their respective regulatory regimes. In 2006, Chinese Taipei has held a *Forum on the APEC-OECD Integrated Checklist on Regulatory Reform* (June 27, 2006), within which two OECD experts (Dr. Rolf Alter and Dr. Josef Konvitz) were invited to meet with its high-ranking government officials to gain further support for its self-assessment exercise and to help disseminate the essence and basic tenets of the Checklist. Later in September 2006, along with the USA and Hong Kong, China, Chinese Taipei submitted a self-assessment report and delivered an oral presentation on its self-assessment on the Checklist in an APEC-OECD joint roundtable discussion within the EC2 meeting.

CEPD has initiated studies on establishing a mechanism for Regulatory Impact Analysis (RIA), to assess the feasibility of employing the RIA mechanism to review existing regulations or newly enacted laws. It is hoped that this may provide a

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systematic method to adopt while conducting regulatory reforms. For the first phase, the study on the operational experiences of the various OECD countries, including the US, UK, Canada, South Korea, and Australia, has already been completed, with a report thereon issued at the end of 2003. At the end of February 2004, CEPD has completed the second-phase task of empirical analysis, within which one best-practice case study with regards to the "Commodity Inspection Act" of the Bureau of Standards, Metrology and Inspection, MOEA was conducted. CEDI of the CEPD was invited to participate in "the 4th Conference on Good Regulatory Practices," which was held at Da Nang, Vietnam, September 4, 2006 and made a presentation entitled "A Case Study of RIA" to share Chinese Taipei's experiences in promoting the RIA mechanism with its regulatory regime.

This year (2007) Chinese Taipei is planning to hold another Seminar on RIA: Best Practices and Case Study, within which Mr. David Shortall is invited to deliver a lecture on his research and experiences. Mr. Shortall's OECD Trade Policy Working Paper No. 48--Regulatory Reform and Market Openness: Processes to Assess Effectively the Trade and Investment Impact of Regulation—gives us great inspiration. And we look forward to his further contribution in this regard.

In an effort of trying to bridge the works and experiences among different international realms such as APEC, OECD and the WTO, Chinese Taipei is also proposing to the TBT Committee Meeting that it is to provide a speaker for the GRP (Good Regulatory Practices) Workshop, which will be held in March 2008, so as to share Chinese Taipei's experiences and methodology with regard to promoting the RIA mechanism within its regulatory regime as a way for supporting the initiative of capacity building and instigating positive exchanges among members.

This year the Golden Axe Awards would complete its mission. And in the year 2008, we propose to enhance the capacity building program for RIA. Specifically, Chinese Taipei is to hold an international symposium for RIA by inviting at least 8 experts from OECD and various APEC member economies to deliver their knowledge and experiences on good regulatory practices. In the meantime, several training camps on RIA practices would be organized domestically to train Chinese Taipei's mid-level civil servants of various government agencies. The purpose is to deepen government officials' understanding of the Assessment Checklist for Law Proposal being developed by CEPD along with the Committee of Laws and Regulations of the Cabinet and reinforce the operational flowchart for both general and significant law proposals with the aim of testing and improving the designed mechanisms for conducting RIA.

In the area of Competition Policy, some updates are to be mentioned. As reported in the previous Checklist self-assessment report, the Fair Trade Act has undergone three amendments in 1999, 2000 and 2002 respectively. To be in line with the international trend and the needs of industries, the 4th amendment to the Fair Trade Act is currently under drafting. The key points of the draft amendment include the following:

1. To adjust the classification of anti-competition and unfair competition conducts;
2. To detail the regulation of punishment;
3. To be in coordination with the government reform as a whole;
4. To limit the scope of materials and files available for access.

For establishing a transparent law enforcement standard, the Fair Trade Commission will continue to review related regulations and practices so as to ensure the transparency, standardization and rationalization of administrative procedure.

In the area of market openness, the Bureau of Standards, Metrology, and Inspection (BSMI) of MOEA has been actively participating in the WTO TBT meetings and they deeply recognize the necessity of adopting RIA or the so-called good regulatory practices. This year BSMI is planning to invite the Jacobs and Associates (<http://www.regultaoryreform.com>) to Chinese Taipei to hold a series of training courses on practicing RIA. It is expected that about 100 legal personnel of various government entities would participate in this event and gain advanced RIA knowledge from this internationally renowned group.

Chinese Taipei's Updated Answers to Some Questions of the APEC-OECD Integrated Checklist on Regulatory Reform

A: Horizontal Criteria Concerning Regulatory Reform

A6: Are the policies, laws, regulations, practices, procedures and decision making transparent, consistent, comprehensible and accessible to users both inside and outside government, and to domestic as well as foreign parties? And is effectiveness regularly assessed?

Answer:

With regard to announcing regulations, starting from January 1, 2005, the Cabinet has issued an integrated gazette, the *Cabinet Gazette*, which is published daily (except for holidays) (paper and electronic versions are issued simultaneously. The website is: <http://gazette.nat.gov.tw/>). This was done in accordance with the *Freedom of Government Information Act* and other laws and regulations, which state that the Cabinet should publish information in a bulletin in addition to the official bulletin (e.g. the official gazettes concerning government procurement or patents) of

each agency under the Cabinet. Laws and regulations should be published in the *Cabinet Gazette* when they are issued so that the public may have a convenient channel from which to become acquainted with the workings of their government. On May 21, 2007, the Cabinet further issued an administrative order, which stressed the legal obligation for publishing government information on the Cabinet Gazette and, at the same time, revised the list of publications as required by Point 4 of the Outlines for the Gazette Publication (as reported previously in the Question B4 for the Checklist).

B: Regulatory Policy

B8: To what extent have measures been taken to assure compliance with and enforcement of regulations?

Answer:

The establishment of the *Administrative Execution Act* (2007 amendment) and *Administrative Penalty Act* (2006) procedural mechanisms is to ensure that people obey laws and to make it easier for administrative agencies to enact laws in order to implement and show people's obligation in administrative regulations.

C: Competition Policy

C5: To what extent does the agency responsible for the administration and enforcement of the competition law (the "Competition Authority") operate autonomously, and to what extent are its human and financial resources sufficient to enable it to do its job?

Answer:

The FTC is a ministerial level agency, responsible for policy and legislation as well as enforcement. There are nine full-time Commissioners, including the chair and vice-chair. They are nominated by the leader of the Cabinet and appointed by the leader of Chinese Taipei for 3 year, renewable terms. The terms of the Commissioners are simultaneous. Commissioners meet weekly to decide important matters at the Commissioners' meeting. Action is by majority vote of a quorum of the membership, which in turn is one more than half of the total. By law, Commissioners must be well experienced in law, economics, finance, tax, accounting or management. The Commissioners "shall be beyond party affiliations", and no more than half of them may be members of the same political party.

The Fair Trade Act and the Organic Statute contain recitals supporting the FTC's independence. FTC actions are not to be scrutinized by the Cabinet or other agencies. The FTC's independent status may be clarified by a pending reform. The Parliament has passed a new government organic law providing for five agencies to be outside the Cabinet reporting structure. Appeals from FTC decisions would be taken directly to

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the Administrative Court, rather than an appeals committee responsible to the Cabinet. The FTC chairman would no longer participate in Cabinet meetings. Commissioner appointments would be subject to consent by the legislature. The Commission would probably shrink, to 5-7 members, and terms would be staggered rather than consecutive.

The FTC is divided into two levels: the Commissioners' Meeting and the operations and administrative agencies. The Commissioners' Meeting is the highest policy-making body, and decisions are made by majority vote of the nine full-time Commissioners. The operations departments include the First Department, Second Department, Third Department, Department of Planning and the Department of Legal Affairs, while the administrative departments include the Secretarial Office, Personnel Office, Accounting Office, Statistics Office and the Anti-corruption Office. The Competition Policy Information and Research Center was established on 27 January 1997 to provide expert consultation and training services in competition policy. Since July 1999, personnel have been assigned to the Cabinet Southern Region Associated Services Center to expand FTC services to southern residents of Chinese Taipei. In addition, various task forces have been established in a timely manner to resolve specific issues, help develop projects and initiatives and to enforce competition law and policy.

Most staff members of the FTC have majored in law, economics or both. Among the total 212 employees, as of the end of year 2006, 28% have background in law, 17% have a background in economics and 55% have a background in various other fields, such as business administration, information technology, human resources and accounting.

The FTC's annual budget is subject to Parliamentary review and approval. The budget expenditure of Year 2006 was about 354 million (NT\$354,216,000). Due to the tightening of fiscal policy, the annual budget over the past years slightly decreases annually. Therefore, the FTC sets its priorities on operations based on the fair trade implementation plan, and budgets are determined and appropriately allocated.

D: Market Openness Policies

D7: To what extent are harmonized international standards being used as the basis for primary and secondary domestic regulation?

Answer:

Chinese Taipei's policy on technical regulations observes the provisions of the WTO TBT Agreement by requiring that relevant standards, guides or recommendations developed by international standardizing bodies are used as a basis for technical

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regulations whenever they are appropriate. The rates of harmonized international standards being used as the basis for technical regulations in sectors of electrical/electronic products, chemical products, measuring instruments are 100%, 89% and 81% respectively.

Epilogue

In view of a recent reshuffle of the Cabinet, it is recognized that high turnover among cabinet officials has made it difficult to sustain consistent government policies and provide adequate oversight. The challenges being reported last year still remain very true. We look forward to the future government restructuring so as to have a brand new National Development Council, which would better integrate resources among ministries and resume the leadership role for Chinese Taipei's economic development.

Chinese Taipei presenter

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Biography :

Chief of Administration Section since June 8, 2007 and Chief of External Liaison and Policy Promotion, Center for Economic Deregulation and Innovation, Council for Economic Planning and Development (CEPD) since Jan. 1, 2005, Ms. Huang has served 4 years in CEPD, following her civil services at the Urban Development Department of Taipei City Government and National Bureau of Standards (Ministry of Economic Affairs) and research work at the Institute of Information Science of Academia Sinica. Her work in CEPD covers international affairs regarding APEC, OECD, and WTO as well as other international think tanks and coordination matters with foreign chambers of commerce in Chinese Taipei, in addition to promotion for important economic development policies. Ms. Huang was educated at School of Architecture, University of Maryland at College Park, USA (1997-2000) and has one-year doctoral study at Edward J. Bloustein School of Planning and Public Policy, Rutgers, the State University of New Jersey, USA.