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Mercedes-Benz Taiwan Ltd. is established in January 2002, which serves as a subsidiary of German automobile manufacturer Daimler AG. Business scope of Mercedes-Benz Taiwan includes sales, after sales service, and brand management of Mercedes-Benz passenger cars and trucks, Mercedes-Benz Select used cars, and smart cars. Ever since Mercedes-Benz was introduced to Taiwan in 1969, it has successfully built a leading position in the imported luxury car segment.

Through strong dealer network, the company has gained solid customer loyalty. Among the authorized dealer network of Mercedes-Benz Taiwan, Capital Motors, Tai Lung Motors, Tai Ming Motors, Bin Hang Motors, Yu Bin Motors, Lien Li Motors, Chung Chang Motors, Bin Hong Motors, and Supreme Motors are in charge of Mercedes-Benz passenger cars and Mercedes-Benz Select used cars. Yu Ye Motors and Champion Auto are in charge of the distribution of Mercedes-Benz Trucks. Capital Motors is the exclusive dealer of smart. Mercedes-Benz Taiwan also established the largest vehicle preparation center in imported car industry, offering products with best quality and most professional services.

Besides car sales, the company also founded a completely owned subsidiary company, Mercedes-Benz Financial Services Taiwan Ltd. providing comprehensive automobile financing, leasing and insurance services.

Being the leader of imported luxury car in Taiwan, Mercedes-Benz Taiwan actively devotes in corporate social responsibility, which scope includes people development, work environment, compliance and integrity, and cultural sponsorship. "Star Event" as well as "Star Dreams" where philanthropy and environmental protection are carried.

Taiwan賓士股份有限公司(Mercedes-Benz Taiwan Ltd.) 成立於2002年1月，是汽车業巨擘德國戴姆勒集團(Daimler AG)在台之子公司。台灣賓士在台業務包含Mercedes-Benz乗用車與重型商用車、Mercedes-Benz Select原廠精選中古車、以及smart汽車之銷售、服務與品牌經營。

Mercedes-Benz品牌自1969年引進台灣後，已成功建立豪華進口車領導品牌地位，台灣賓士透過強大的經銷體系建立起堅實的客戶忠誠度，目前台灣賓士之授權經銷商，Mercedes-Benz乘用車與原廠精選中古車部分包括中華賓士、台隆賓士、中華賓士、裕賓賓士、聯立賓士、賓航賓士、裕益賓士、國道賓士及中彰賓士；Mercedes-Benz重型商用車部分為裕益汽租賃及保險相關服務。

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Microsoft brings Computational Thinking to Taiwan

In line with its mission to “empower every person and every organization on the planet to achieve more,” Microsoft Taiwan is providing a wide spectrum of programs and resources aimed at enabling young people to make the most of the opportunities in today’s tech-driven world. By providing technology-enabled learning resources to schools, building Office utility functions into social media platforms, and offering high-quality internships and guidance to university students, “we give young people the tools to achieve,” says Tim Pan, University Relations Director of Microsoft Research, when she was President Obama’s Technology Enabled Learning Director of Microsoft Research, when she was President Obama’s Technology Enabled Learning Director of Microsoft Research, when she was President Obama’s Technology Enabled Learning Director of Microsoft Asia.

The need is certainly clear. As technology becomes increasingly pervasive in modern society, doors are being opened and opportunities created, and employment experts say many of what will be top jobs in the coming decades haven’t even been created yet. The U.S. Bureau of Labor Statistics says that IT-related jobs are growing at twice the rate of other forms of employment, and by 2020 the United States will have as many as one million unfilled technical jobs for lack of enough workers to fill them. In response, President Obama has made computer science a priority for his administration, pledging US$4 billion in grants over three years and US$100 million in direct aid to states that ramp up their computer science programs.

Microsoft supports the Obama’s proposal and sees a similar need in Taiwan. Key to Microsoft’s goals is establishing computer science – or more broadly, “computational thinking” – as a core subject for all students. The term “computational thinking” was coined by Jeannette Wing, now Corporate Vice President of Microsoft Research, when she was President’s Professor of Computer Science at Carnegie Mellon University. Computational thinking “is similar to mathematics or language in that it establishes the way you think,” explains Tim Pan.

Chang Yao-wen, Associate Dean and Distinguished Professor at the National Taiwan University (NTU) College of Electrical Engineering and Computer Science, describes computational thinking as a “problem-solving methodology” that involves “formulating/modeling a problem, decomposing the problem into sub-problems, developing procedures to solve each sub-problem, combining solutions to the sub-problems for the original problem, and analyzing the outcomes.”

According to Chang, the importance of building computational thinking into modern curriculums can’t be underestimated. “I deeply believe that cultivating problem-solving techniques is the most crucial training for students in all disciplines,” he says, highlighting its importance both inside and outside of the classroom. “Because it’s very unlikely students will encounter exactly the same problems we taught them in class, only problem-solving capability can enable them to go far in handling new real-world problems.”

**Technology Enabled Learning**

Technology offers many powerful tools to support not only computational thinking but all learning, says Chang, citing such techniques as flipped classrooms, learning by gaming, and online learning.

In “flipped classrooms,” for example, students watch a pre-recorded lecture for homework, giving instructors more time to work on exercises and directly interact with students during class. Chang notes that for the past several semesters, NTU, especially the College of Electrical Engineering and Computer Science, has utilized the “flipped classroom” approach in teaching some introductory undergraduate classes. The result, as Professor Yeh Ping-Cheng has observed, is that students generally outperform their peers in standard classrooms by an average of more than five points on exams. The university is looking into further expanding the use of this method.

Learning by gaming is “particularly effective for most kids and even college students who like to play games,” says Chang, especially in rural areas where schools lack sufficient educational resources. He notes that NTU professors are at the vanguard of this approach with several programs that have proven effective in facilitating learning.

Technology-enabled learning “can keep students alert, enhance students’ class participation, and let the instructor know the teaching effectiveness and students’ learning outcomes in real time,” says Chang. He also stresses the need for educational methods to keep up with current trends. “We are living in the Internet era, and we’d better keep up with the technologies.”

To facilitate technology-enabled learning, Microsoft offers a number of technology resources. For example, Microsoft has built Office applications into social media platforms such as WeChat, Facebook, and Line. These applications not only smooth communications among teachers, students, and parents, but enable teachers to easily create online classes for their students. In the past, says Microsoft’s Pan, creating online courses was both expensive and difficult, but with Office Mix, a Microsoft PowerPoint plugin that includes video and audio recording features and is easily editable, Microsoft has empowered teachers to make their courses more widely available for students.

**Talent Fostering**

While Microsoft is offering many initiatives geared towards K-12 grade levels, Microsoft takes university students just as seriously, as shown by its generous and open internship programs for budding young professionals. Every year Microsoft Taiwan offers about 150 places in its internship program, where students are not treated as “gofers” doing menial work but are fully participating in Microsoft’s business right alongside professionals. “We allow them to really get into daily business, and we don’t treat them differently,” says Pan.

These internships not only enable students to gain professional experience but even enhance their university coursework. “When school learning is combined with internships, students get a better understanding of the real world and so they know what they want to learn,” explains Pan. “They become more curious and really dig into things.”

Microsoft also offers resources, training and guidance to members of university-based computing clubs. Selected students learn how to make the most of Microsoft technologies, after which they can share their knowledge with their peers. As with Microsoft’s many other education-oriented activities, the program is designed to help young people thrive in an era of increasing technological opportunities.
微軟為台灣開啟「運算思維」時代

微軟正推出豐富多元的專案及資源，協助年輕人在由科技驅動的今日世界中，盡可能善用各種機會，以達成微軟「幫助全球的每一個人和每一個組織，都能實現更多、成就更大」的一貫使命。微軟亞洲研究院學術合作總監潘天佑博士說，微軟把有科技輔助的學習資源帶進校園，為社群媒體平台建置Office軟體應用功能，也提供大學生高品質的實習、輔導機會，旨在「給年輕人創造成就的工具」。

這個需求顯然很大。現代社會中科技應用日益普遍，陸續帶來新出路，新契機。就業市場的專家也說，未來數十年內可能出現的頂尖行業，很多現在還不見蹤影。美國勞動統計局更指出，資訊科技相關職缺增加的速度是其他行業的兩倍，2020年美國將有多達1百萬個技術職缺因缺乏足夠的工作者而待補滿。為了因應此一趨勢，歐巴馬總統也將電腦科學教育視為政府施政重點，規劃於5年內推動總計40億美元的資助方案，並配1億美元直接補助金，給各州用於強化電腦科學課程。

微軟支持歐巴馬提出的計畫，也在台灣看到類似的需求。

對於微軟來說，達成目標的關鍵在於讓電腦科學（或者更廣義的「運算思維」）成為所有學生必須修習的核心科目。「運算思維」一詞，是微軟研究院、全球資深副總裁周以真擔任卡內基美隆大學電腦科學校長講座教授時的發想。潘天佑說，運算思維「建構了思考的途徑，這點與數學或語言類似」。

臺灣大學電機資訊學院副院長暨特聘教授張耀文博士，把運算思維形容成一種「解決問題的方法論」，它包含「以公式、模型描述問題，把原始問題拆解成次要問題，發展解決次要問題的程序，整合次要問題解決方案，以處理原始問題，再分析結果」。

張耀文說，把運算思維導入現代課程，重要性不容低估。他說，「我非常認為學生必須學習解決問題的技術，對所有科系的學生而言，都是最重要的訓練。」他也強調無論在教室內、外，解決問題的能力都很重要，「因為學生將來會難難遇到跟我們課堂上教授完全相同問題，唯有具備解決問題的能力，可以使他們在處理真實世界新問題時如虎添翼」。

科技輔助學習

張耀文說，不單是計算思維，科技可化生力量強大的多種工具，支援各種學習，他舉了一些技術，例如翻轉教室、遊戲式學習與線上學習。

舉例來說，在「翻轉教室」裡，學生會觀賞預錄的講課內容，先做功課，老師便有更多時間指導學生做練習題，也能在課堂直接與學生互動。張耀文說，過去幾個學期以來，台大、尤其是電機資訊學院的翻轉教室教學法運用在一些大學部基礎導論課程。他引證台大教學發展中心教師發展組組長暨電機系教授葉丙成博士的觀察結果指出，參與這種授課的學生，期末考的成績比留在一般課堂學習的學生平均多拿了5分以上。台大現在還試圖進一步推廣翻轉教室教學法。

張耀文說，遊戲式學習「對於大部分喜歡玩遊戲的兒童甚至大學生，都特別有效果。」，尤其是在學校欠缺足夠教育資源的鄉村地區。他說，在遊憩引導學習上，台大幾位教授是開創者，他們推動的幾個計畫都獲證實有助於學生的學習。

張耀文更指出，科技輔助學習「使學生保持警覺，更積極參與課堂教學，也讓老師即時掌握學生成效和學生的學習成果」。他還強調，教育方法必須跟上現在的趨勢，「我們活在網際網路時代，最好跟上科技的最新進展」。

為了讓科技輔助學習更為便利，微軟還推出了幾種科技資源。例如，微軟已把Office應用軟體功能建置於WeChat、Facebook、Line等社群媒體平台。這些應用軟體不只幫助教師、學生、家長之間的溝通更順利，更讓教師容易為自己的學生製作線上課程。微軟的潘天佑說，製作線上課程，在從前是既昂貴又困難，但微軟PowerPoint軟體的外掛模組Office Mix有影音錄製功能，編輯檔案極為方便，微軟藉此讓教師有能力把課程推廣給更多學生。

扶植人才

雖然微軟針對幼兒園、小學至中學這「K-12」教育階段推動了許多計畫，微軟對於大學也同樣重視。才剛起步的專業青年有機會參與微軟條件優厚也很開放的實習計畫，即為明證。每年台灣微軟都安排了大約150個實習名額，正職員工並不會把這些實習生視為跑腿打雜的小助理，而是讓實習生真正融入工作，與專業人員一同努力。潘天佑說：「我們開放實習生去接觸公司日常營運實況，對他們沒有差別待遇。」

這些實習計畫不僅幫助學生獲得專業經驗，甚至還使他們的大學學業成績有所提昇。潘天佑解釋：「把校園學習與實習經驗結合，學生更能理解真實世界，也會知道自己想學哪些事物，好奇心、深入學習探索的動機會更強烈。」

台灣微軟也為大學裡電腦社團的成員提供各種資源、訓練及指導，獲選學生可以學習如何把微軟擁有的科技做最有效的利用，學成之後，他們能與同儕分享知識。一如微軟所推動其他多種以教育為主軸的活動，此一計畫的宗旨，是幫助年輕人在新科技不斷湧現的年代裡發展茁壯。

張耀文說，不單是計算思維，科技可化生力量強大的多種工具，支援各種學習，他舉了一些技術，例如翻轉教室、遊戲式學習與線上學習。
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FOREWORD

An integral part of the Taiwan White Paper exercise is to look back a year after publication to evaluate the progress made in tackling the various issues raised by AmCham Taipei’s committees. This year we are pleased to report that out of the 76 suggestions presented in the 2015 White Paper, six have been rated as “solved.” In the dozen years since the Chamber started tracking these numbers, that level of success has been matched only three times and exceeded just once – by the nine issues from the 2008 White Paper that were resolved during the following year.

In addition to the six issues from 2015 that can now be marked “solved,” eight were found to have made good progress based on “satisfactory follow-up by the government;” 35 are considered to be still “under observation,” having received initial attention by the government but with the ultimate prospects still uncertain; 25 are regarded as “stalled,” with no discernible progress; and two issues are no longer committee priorities and have been dropped.

Of the six issues resolved, four were in the financial-services sector – two each from the Asset Management and Banking Committee position papers – in addition to one under Sustainable Development and one from Technology. The resolved issues are:

- **Asset Management.** Through dialogue with the U.S. Securities and Exchange Commission, the Financial Supervisory Commission (FSC) worked out arrangements for Taiwan onshore funds to outsource their investment-management function to U.S. entities. Previously the Taiwan funds were at a disadvantage in responding to investment opportunities because of time differences. This item was the committee’s number-one issue in 2015.
- **Banking.** The FSC also coordinated with the Central Bank of the Republic of China to allow foreign-currency discretionary investment management accounts (DIMs) to invest in the foreign-currency share class of NTS-denominated onshore funds. The committee regarded this change as an important step in increasing the volume of onshore assets under management (AUM).
- **Banking.** The financial regulatory body accepted the committee’s recommendation to permit – in line with common international practice – counter-guarantee arrangements between a Taiwan bank subsidiary and its overseas parent bank or affiliates for serving overseas banking customers.
- **Sustainable Development.** The government launched an incentive program for the scrapping of aged passenger vehicles in the interest of reducing pollution and CO₂ emission levels, as well as enhancing motorists’ safety.
- **Technology.** The Public Construction Commission revised its model contract for government agencies procuring IT services to better define the scope of liability and the determination of copyright ownership.

AmCham Taipei each year offers its recommendations – based on the day-to-day operational experience of our member companies – for the reference of government agencies in hope of contributing to the constant improvement of Taiwan’s business environment. The Chamber appreciates the government’s positive attitude in taking these suggestions under serious consideration, and we are gratified that so many of them have been adopted into practice. We hope that a year from now many of the issues currently rated as “in progress” or “under observation” can be added to the list of those entirely resolved.
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3M committed to long-term investments in Taiwan

U.S. material sciences company 3M has long been established in Taiwan as a diversified material manufacturer that partners with some of the most important players in the Taiwanese economy. The company serves customers through five business divisions: Consumer, Health Care, Electronics and Energy, Industrial, Safety and Graphics.

3M Taiwan is known for its creativity and for producing a great diversity of products, such as the iconic Post-it Notes and Scotch tape. Among the products the company manufactures, 80 percent are industrial-related or for manufacturing, while 20 percent are daily consumer goods developed from industrial products.

3M’s commitment to Taiwan has been unwavering over the years. Established in Taiwan in 1969, the company’s business has grown steadily here over almost a half century, and it now has more 1,600 employees on the island. The company’s Taiwan headquarters are in Taipei City and it has sales centers in Taichung and Kaohsiung; a warehouse in Dayuan, Taoyuan City; and a plant and R&D center in Yangmei City, Taoyuan City. In 2005, 3M Taiwan Optronics Corporation was established in the South Taiwan Science Park as the only manufacturer of prism sheet films in Taiwan.

The Customer Technical Center (CTC) in Yangmei is 3M’s first green building in the Asia-Pacific region and has been accredited by the US Green Building Council as a Leadership in Energy and Environmental Design (LEED) gold-rated green building. “We are dedicated to pursuing sustainable business both in Taiwan and globally,” 3M Taiwan Managing Director Jeffrey Xu says. “Going green is a core value for us.”

Given 3M’s long-term presence in Taiwan, the company has achieved strong brand recognition in the nation. In the Brand Asia 2016 survey (conducted by Taiwanese research firm Eastern Online and Japanese consulting firm Nikkei BP Consulting) 3M was ranked as the No. 7 overall brand in Taiwan.

New investment opportunities

At present, Taiwan’s investment environment faces certain challenges. From 3M Taiwan’s standpoint, foremost among them are procurement pricing pressures that are limiting Taiwan’s ability to accept new, cutting-edge technologies and discouraging foreign investment. “We hope the new government will come up with something encouraging.” Xu says.

In the industries which President Tsai Ing-wen has highlighted as focus areas for the new government, 3M is prepared to give its full support, he says. For instance, in the case of the Asia Silicon Valley proposal, 3M can be a vital player. “Our customers are among the most technologically advanced semiconductor manufacturers in the world,” notes Xu.

Since 2011, 3M has had a Semiconductor R&D Center in Taiwan, which offers its customers on the island and throughout Asia access to 3M’s Wafer Support System (WSS) materials and processes for temporary bonding for ultrathin wafer handling applications for 3D integrated circuit (IC) packaging. 3M continues to invest in Taiwan’s semiconductor industry with the import of advanced technology called “Chemical Mechanical Planarization” (CMP), a process using chemical and mechanical action to planarize the wafer surface. Developed in the United States and Europe, this technology will support Taiwan in maintaining its place as the world’s foremost semiconductor manufacturer.

In the field of green energy, 3M also has much to offer Taiwan. 3M is tightly integrated into the supply chains of Taiwan’s world-leading solar cell manufacturers, providing solutions for green energy providers. Further, its advanced material on “Film” technology, has supported a Taiwanese fuel cell manufacturer on developing a “clean energy” solution for motorcycles, contributing to the environment of innovation in green tech in Taiwan.

3M plans to further help Taiwan develop three other industries President Tsai has promised to focus on. With its strong capacity in smart machinery, 3M has developed advanced and diversified machinery parts that will be important as Taiwan moves into the Industry 4.0 era. Secondly, 3M has a number of aerospace and shipbuilding-related products which can bolster Taiwan’s defense industry. Finally, 3M is also poised to boost the local biotechnology sector. In addition to offering advanced medical materials, the filtration technology can be a big support to local biotech industry’s manufacturing process.

Overall, “we are one of the few large global companies that has been committed to its Taiwan operations over the years,” Xu says. “We were one of the first foreign companies to set up operations here, nearly 50 years ago, and we have consistently invested in Taiwan, including through challenging economic periods.”

He concludes: “3M is here for the long run and we will do our utmost to contribute to Taiwan’s economic growth.”
3M以創新和製造多元產品聞名。在台營運即將屆滿半個世紀，3M因為銷售各式各樣極具巧思的產品成為本地消費者日常生活的好朋友，更以46個多元技術平台的強大後盾，成為台灣各產業龍頭不可或缺的策略夥伴，貢獻客製解決方案。3M台灣生產銷售三萬多種的產品在消費、醫療、電子與能源、工業、安全暨圖識產品的5個事業群為顧客提供服務。

3M台灣推出的產品中，有80%是跟工業有關，或是用於製造業，另有20%是從工業產品開發出來的日常消費用品，例如經典產品Post-it利貼便條紙與Scotch膠帶。

3M深耕台灣的承諾多年來未曾改變。於1969年在台成立子公司，總部設在台北，於台中和高雄擁有業務聯絡處，物流中心設在桃園大園，在楊梅廠區則設有生產線及創新研發中心。2005年，在台南科學園區成立台灣明尼蘇達光電股份有限公司，專注於光學增亮膜製造，以優化的產品與供應鏈支援南部光電產業發展。

3M台灣子公司設立已近50年，不僅是最早在台設立營運據點的外商，更是少數堅持持續投資臺灣的企業之一。3M仍將秉持昔日設立公司時的初衷，「在臺灣永續經營，而且全力為臺灣的經濟成長做出貢獻。」

TAIWAN BUSINESS TOPICS • JUNE 2016 13
Potential Triple Wins from Managed Entry Agreements

For countries around the world with national healthcare systems, a constant challenge is how to accommodate new and innovative drugs and other medical technologies to meet patients’ needs without placing undue pressure on the system’s finances. In Taiwan, the National Health Insurance Administration (NHIA) has been highly conscious of its dual responsibilities along these lines: 1) ensuring that optimal treatment is available, while 2) protecting the long-term sustainability of Taiwan’s widely admired health-insurance program.

Internationally a number of different approaches have been used to help achieve this balance. In an effort to promote greater understanding of these concepts, the International Research-based Pharmaceutical Manufacturers Association (IRPMA) focused on this topic at its most recent Pharmaceutical Innovation & Drug Policy Workshop, held May 7 at Taipei’s Evergreen International Convention Center. Two foreign experts were brought in as presenters: Adrian Griffin, vice president for Health Technology Assessment (HTA) & Market Access Policy at Johnson & Johnson, and member of the PhRMA HTA Task Force; and Adam Mitchell-Hegg’s, consulting associate at the prominent global consulting firm Charles River Associates.

They were joined on the program by NHIA Section Chief Huang Jau-Jie, who described NHIA’s model for estimating new drug expenditures for the next budget year and explained the added complexity in Taiwan due to the existence of a global budget for healthcare expenditures. Within the global budget, resources need to be divided between the hospitals and the primary-care sector. The concern always exists that unexpectedly high costs for a new drug will strain the budget and have a squeezing-out effect on other healthcare resources.

Griffin’s presentation was entitled “Reimbursement Challenges for High-value New Drugs – the International Experience.” He stressed the vital role that medicines play in saving and extending patients’ lives, noting for example that vaccines avert an estimated 2-3 million deaths a year and that a quarter of the marked increase in life expectancy for cancer patients is attributed to innovative medications.

Yet mounting challenges impede patient access to innovative drugs, including heightened regulatory hurdles, the growing cost of R&D, expanded use of HTA, and the increased length and complexity of clinical trials. Given the resulting financial constraints, Griffin noted, mechanisms are needed market by market to assure that access to innovation remains affordable while still providing sufficient incentive to manufacturers to invest in innovation. These mechanisms take different forms and are known by different names in different markets, but collectively are usually called Managed Entry Agreements (MEAs).

The purpose of these agreements reached between government payers and individual companies, Griffin explained, is to assist payers when they “face significant uncertainty over the clinical or financial impact of new drugs.” For example, one type of scheme addressing concerns about clinical uncertainty might set a cap for the duration of treatment, with full reimbursement for the drug during that pre-defined period of time and a free supply for patients continuing with treatment thereafter. An agreement geared toward financial concerns might set an annual budget for treatment, with risk sharing if the cap is exceeded.

Mitchell-Hegg’s presentation, “Global Trends in the Use of Managed Entry Agreements,” continued the introduction of the two types of MEAs: financial-based and outcomes-based agreements. Financial-based schemes, such as the Price Volume Agreements that have been used in Taiwan, have tended to be the most common internationally. Outcomes-based MEAs generally entail higher implementation costs and administrative burdens because of the need to track performance and analyze the data while maintaining patient privacy. However, an increasing number of countries, such as Italy, have adopted outcomes-based agreements in recent years.

New pricing challenges have been emerging with the increasing number of drugs with multiple indications, and some countries have developed new methods or infrastructure to deal with the issue.

While MEAs have both advantages and disadvantages according to where and how they are used, Mitchell-Heggs noted the value they can bring when used appropriately. These benefits, to name just a few, include reduced delay in access to medications, greater financial certainty, guarantee of performance, and opportunities for discounts to payers.

He offered a number of lessons from other markets as reference. Among them:

- Keep it as simple as possible. Both manufacturers and payers should avoid suggesting complicated agreements.
- Design the MEA to address the issue at hand. Be clear on what the MEA is being designed to achieve, particularly whether the key objective is minimize clinical uncertainty or budgetary impact, or to ensure cost-effectiveness.
- Tailor to the circumstances of the country. The local legal context must be considered.
- MEAs require confidentiality. Companies must have assurance that data will not reach their competitors.
- MEAs require trust among all parties.

Speaking on behalf of IRPMA as a director of the association, GSK Taiwan Vice President and General Manager Rene Jensen noted that while MEAs have been shown to help secure value for patients in the face of economic pressures on healthcare systems, “each country needs to decide what is most applicable – no one size fits all.” Although Taiwan can learn from other markets, he said, in the end “we need to adopt a model that is most suitable to Taiwan.”

Industry and government representatives agreed that the Workshop, as well as the opportunity for private discussion beforehand, provided an excellent platform to consider worldwide trends and their potential implications for this market. It was clear that under the right conditions, MEAs represent a win-win-win situation – better access to innovative drugs for the patients, better control over expenditure for the payer, and more price predictability for the manufacturers.
對世界上建立了全民醫療體系的國家，避免非必要的財務壓力，善用創新藥品及其他醫療科技滿足病人需求，是當務之急的挑戰。在台灣，健保署面對此一現實，也深刻體認其肩負的雙重責任：一，確保民眾能取得理想的治療；二，力求台灣廣受稱許的健保制度能長久經營。

舉世各國採取了幾種不同作法，試圖達成上述雙重目標。為了讓更多人瞭解相關概念，中華民國開發性製藥研究協會（IRPMA）於5月7日在張榮發國際會議中心針對這個議題舉辦了「創新藥品政策研討會」，並邀請來兩位外國講者，包括嬌生公司醫藥科技評估（HTA）暨藥品市場政策副總裁，也擔任美國藥品研究及製造商協會（PhRMA）醫藥科技評估工作小組委員的Adrian Griffin，以及在知名全球顧問公司Charles River Associates擔任顧問的Adam Mitchell-Heggs。

同樣與會擔任講者的健保署科長黃兆杰，說明了健保署推估下一預算年度新藥支出所依據的模型，並指出台灣健保因為實施總額支付制度，有較為複雜之處。總額制度下，資源由醫院、基層醫療部門兩者分配利用。而某種新藥難以預期的高額成本，可能對整體預算造成沈重負擔，排擠其他醫療項目所需資源，是長期以來都有的顧慮。

Griffin以「高價新藥之給付挑戰及國際經驗分享」為題，強調藥品在挽救與延長病人生命所扮演的關鍵角色。他舉例說，疫苗一年估計使2百至3百萬人免於死亡，創新藥品也幫助癌症患者延長壽命，他們所增加的平均餘命有4分之1可歸功於新藥。

然而，病人要使用創新藥品做治療，挑戰日增，諸如法規限制增加、研發成本攀升、HTA的應用日益普遍、臨床試驗費時更久也更加複雜等等。Griffin提到，有鑑於各種挑戰所導致的財政後果，必須根據不同市場的個別需求來建立機制，確保創新藥品的費用不會難以負擔，同時替製藥業者持續投資、追求創新，提供充足誘因。這些因應機制或許有不同型態，在各國的名稱也各異，但常可統稱為「新藥給付管理協議」（Managed Entry Agreement，以下簡稱 MEA）。

Mitchell-Heggs的講題是「應用MEA的全球趨勢」，進一步介紹MEA當中「依據財務影響」及「依據臨床效果」的兩種方案。依據財務影響所協議的方案，例如台灣的價量協議，較為常見。依據臨床效果的方案，通常因為需要追蹤臨床成效、蒐集與分析資料時需要保障病人隱私，執行成本較高，行政負擔較多。不過，越來越多國家，如義大利，近年都依據臨床效果作成協議。

隨著多種免疫療法藥品逐漸增加，藥品核價陸續出現新的挑戰。部份國家也已發展出因應這種問題的新方法、新基礎設施。Mitchell-Heggs說，MEA在不同的國家，以不同方式應用，結果各有異弊，但能漸益利利，MEA可以帶來明確價值，例如縮短無藥可用的等待期間，減少財務風險，確保用藥成效，以及有機會提供付費者價格優惠等等，而這些僅是其中幾種益處而已。

他還提供了其他藥品市場的經驗作為參考，包括：
- 協議規範應盡量簡單，製藥業者與政府機關都要避免提出過於複雜的協議內容。
- MEA的設計，旨在處理現有議題。應該闡明MEA所要達成的目標，說明主要目標是要減少臨床上的不確定性、對預算的衝擊，還是要確保成本效益。
- 依據一國實際處境量身訂做，把該國法律環境納入考量。
- MEA要求參與協議各方確實保密，業者必須能確定競爭對手無從得知相關數據資料。
- MEA要求參與協議各方相互信賴。

以協會理事身份代表IRPMA發言的葛蘭素史克台灣總經理詹森睿（Rene Jensen）說，雖然MEA在醫療體系承受財政壓力時為病人創造價值已有實例，「每個國家都要自行考量哪種作法最可行，而非一體適用」。他說，台灣可以學習其他市場的經驗，不過「還是要選擇最適合台灣的運作模式」。

參加的業界、官方代表都認為，研討會與會前的非公開討論，為探討國際趨勢，以及其對台灣藥品市場的潛在影響，創造了很好的平台。顯然，當條件俱足，MEA能創造三贏局面：病人更有機會利用創新藥品，付費者更有能力管控支出，製藥業者也更有能力預測價格。
Taiwan is a multiethnic country, and nowhere is this truer than in the northwestern counties of Hsinchu and Miaoli. This region is home to less than 7% of Taiwan’s 23.2 million people, but includes five ethnic groups, not counting the Southeast Asians, Westerners, and Indians who have moved here for marriage, or to work in Hsinchu’s high-tech industries.

Coastal towns hereabouts are dominated by Hoklo or Minnan people, descendants of migrants who sailed to Taiwan from China’s Fujian province in the 17th, 18th, and 19th centuries. The hinterlands, by contrast, are a bastion of Hakka culture. The Hakka people, who still speak their own language (part of the Chinese language family) and follow some distinctive customs, trace their ancestry to China’s north, but have been moving southward for well over a millennium. Most ancestors of Taiwanese Hakka came from China’s Guangdong and Fujian provinces. Among their non-Hakka compatriots, Taiwan’s Hakka have a reputation for being excellent students when young, and hard workers when they grow up.

Much of Hsinchu and Miaoli counties is mountainous. Snow Mountain, Taiwan’s second highest peak at 3,886 meters (12,749 feet) stands on the border of the two counties. In hillier parts of the region, villages of indigenous Atayal and Saisiyat people occupy breathtaking locations. Like Taiwan’s other indigenous tribes, they are Austronesians who share linguistic and genetic traits with islanders throughout the Pacific, including native Hawaiians.

Scattered throughout the region are also thousands of waishengren, literally “people from outside the province.” These individuals or their parents moved to Taiwan in the wake of the 1945-1949 Chinese Civil War. Some were soldiers in Chiang Kai-shek’s Nationalist Army; others were civilians. They hail from every part of the Chinese mainland, and have added much ethnic diversity to Taiwan’s population.

Reaching Hsinchu and Miaoli has never been easier. Conventional express trains from Taipei need little more than an hour to reach Hsinchu. From the station, tourists can walk to attractions including Hsinchu Image Museum, the ever-bustling Du Cheng Huang Temple, and eateries serving the city’s signature pork meatballs and rice noodles. Since December 2015, Miaoli has had its own high-speed rail (HSR) station, cutting travel time from the capital to a mere 44 minutes.

Unless you hire a car (easy to arrange at HSR stations, though it is best to reserve a few days in advance), the next step of your journey may be problematic, because the region does not have as many public transportation options as Greater Taipei.

To fill the gap, Taiwan’s Tourism Bureau has created the Taiwan Tour Bus service (www.taiwantourbus.com.tw). This network of routes is designed to make life easier for sightseers by providing not only transportation to scenic and cultural spots, but also guides who speak English, Japanese, or Chinese. The website has full details, including where buses can be boarded, and how to make reservations, which are essential. For each tour, the name of the operator is listed alongside email addresses and phone numbers, so visitors can ask questions before committing themselves. The price for every tour includes insurance, and full-day excursions invariably include a delicious lunch.
Many outsiders associate Hsinchu City with the computer and green-energy companies that operate in its internationally famous Science-based Industrial Park. Few realize that this municipality of 434,000 is also exceptionally rich in terms of history and architecture.

For as little as NT$1,000 per person (NT$1,200 on weekends and holidays), Taiwan Tour Bus will take you from your hotel in Taipei to Hsinchu, and show you the principal sights. Among them is the railway station – a gorgeous landmark dating from Japan’s 1895-1945 occupation of Taiwan – and the photogenic Yingxi Old East Gate. These days, traffic goes around, rather than through, the gate. Treasured as an emblem of the city, the gate has stood there since 1827; the wall which once defended the settlement against bandits and rebels was torn down in 1902.

The tour also takes in the World Expo Taiwan Pavilion (relocated to Hsinchu after sterling service at the 2010 World Expo in Shanghai) and the city’s Glass Museum. It is said that, at one point, 80% of the lights decorating North American Christmas trees were made in the Hsinchu area. The museum celebrates this local industry, and displays some striking examples of glass art.

Another option, the Nanzhuang Hakka Cultural Tour, also lasts an entire day, and the price is the same. Those who sign up can join the bus in Taipei or, if they prefer, at the HSR station in Hsinchu.

The first stop will delight nature lovers. The Fish Conservation Trail meanders through Penglai River Ecology Park in the hilly northeast of Miaoli County. All forms of fishing have been banned here since 2001. As a result, two endemic piscine species thrive, and visitors have an excellent chance of spotting both, not to mention egrets, herons, and clusters of butterflies. The tour then heads to Nanzhuang Old Street, where visitors can enjoy mouth-watering traditional snacks sold by vendors who crowd a quaint, narrow thoroughfare.

Also available is the Miaoli Hakka Culture Tour (NT$1,550 on weekends and holidays, NT$1,350 on week days), which kicks off with a close look at the Miaoli Hakka Tulou, a full-scale replica of the famous roundhouses in mainland China’s Fujian province. Next up is the Miaoli County Urban Planning Center, where tourists can learn about the counties’ past development and plans for the future. One of the most interesting sections is an interactive display explaining how camphor was extracted from the region’s forests (a key industry in the 18th and 19th centuries). Visitors will also learn about Hakka cuisine.

Hakka people have spread to every corner of the globe, and the tour’s final stop, Miaoli Hakka Cultural Park, serves as an international Hakka cultural research and exchange center. It is also a beautiful and eco-friendly piece of architecture.

This package includes lunch, and participants booking ahead of time should indicate whether they prefer to eat at West Lake Resortopia (www.westlake.com.tw) or Zhuo Ye Cottage (www.joye.com.tw). Both establishments are halal-certified, so this tour is especially suitable for Muslim travelers, a tourism demographic that Taiwan has been wooing.

For general travel information about Taiwan, go to the Tourism Bureau’s website (www.taiwan.net.tw) or call the 24-hour tourist information hotline (0800-011-765, toll free within Taiwan). Other websites useful for those planning to visit the northwest include those of the Hsinchu City Government (www.hccg.gov.tw), Hsinchu County Government (www.hsinchu.gov.tw), Miaoli County Government (www.miaoli.gov.tw), and the central government’s Hakka Affairs Council (www.hakka.gov.tw).
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2016

TAIWAN WHITE PAPER

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

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

Although the Taiwan White Paper represents the immediate business interests of AmCham’s approximately 1,000 members, its ultimate goal is to foster the upgrading of Taiwan’s economic conditions to the benefit of both local and multinational businesses. It is also in the interest of the Taiwan public at large, as it encourages the growth of a broad spectrum of high-quality of goods and services to improve the quality of life for all Taiwan residents.

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

New Government, New Opportunities

ZEROING IN ON THE ECONOMY
• The Tsai Ing-wen administration takes office at a time of serious economic challenges marked by sagging exports, stagnant income levels, and low consumer and investment confidence.
• The government needs to focus with intensity on reinvigorating the economy. Although a rapid turnaround is unlikely since many factors are outside Taiwan’s control, the atmosphere set in a new administration’s “first hundred days” can have a big impact on confidence.

IMPROVING THE RULES-MAKING PROCESS
• AmCham encourages the Tsai administration to give early attention to reform of the Administrative Procedure Act (APA). When the process of making regulations is transparent and consistent across government agencies, and provides stakeholders with ample opportunity to comment, government and business efficiency is greatly improved. Establishing a “second-generation” APA would support President Tsai’s stated objectives of enhancing the government’s public communications and encouraging broader participation in policy development.
• The U.S. APA and its implementation through the Federal Register and www.regulations.gov offer an effective model for reference. Federal government agencies in the United States are required to respond to the general thrust of the public comments they receive.
• The Chamber urges the government to create a high-level task force under the Executive Yuan to oversee APA reform, including the setting of a minimum 60-day public-comment period for all proposed new regulations and establishing a single website as a communications platform.
• With a robust APA system in place, many of the problems that become White Paper issues could probably be avoided. Examples of such issues cited in the current White Paper include requirements regarding chemical registration, certain food-related regulations, and the approval process for pesticides.

BURNISHING TPP CREDENTIALS
• APA reform would also demonstrate Taiwan’s seriousness about preparing for second-round TPP candidacy. An economy as export-dependent as Taiwan’s cannot afford to be excluded from this multilateral trade agreement. But Taiwan will need to make a convincing case to the existing negotiating parties that it is willing to meet the high standards set out in the TPP.
• AmCham urges the new government to carry forward the “gap analysis” undertaken by the previous administration to remove any discrepancies between TPP requirements and Taiwan’s laws and regulations, and in fact to fully embrace the TPP spirit of facilitating the flow of goods and services across borders.
• In the course of that review, Taiwan will inevitably have to confront some sensitive and controversial trade issues. Its decisions should be based on accepted international standards and sound scientific evidence.
• Despite growing uncertainty over when or even whether the U.S. Congress will support American participation in TPP, Taiwan cannot afford to bide its time before liberalizing its trade regime. That step is important regardless of TPP, bringing both economic and strategic advantages by enhancing Taiwan’s competitiveness and tying her more closely to the global community.
• Considering trade rival Korea’s success in entering into FTAs and its active promotion for second-round entry into TPP, Taiwan must also ensure that it continues to be prominently mentioned as a potential second-tranche candidate.
• If efforts to create TPP falter, Taiwan would more than ever need the strong support of the U.S. and other major trading partners to avoid marginalization and overconcentration on the Chinese market.

ENSURING A STABLE ENERGY SUPPLY
• Reliable electrical power is important for any economy, but is especially crucial for the semiconductor and other high-tech industries that Taiwan depends on so heavily. Taiwan faces the extra challenges of having to import nearly all its basic energy.
• Political constraints add to the challenge. Both major political parties support the phase-out of nuclear power and an ambitious carbon-abatement program, but it is uncertain how those goals can be met while closing nuclear plants.
• Every effort should be made to conserve energy and foster renewable sources, with wind farms, in particular, offering good potential. But can those efforts make up for the 17% of electricity generation now supplied by nuclear plants? Industry will be looking to the new government to provide a clear, data-driven national energy plan.
• Ensuring sufficient water resources is another infrastructure issue requiring serious attention. Tariffs need to be raised to promote conservation and investment in new technologies and recycling.

ATTRACTING THE BEST AND BRIGHTEST
• For the sake of its economic competitiveness, Taiwan needs to attract more foreign talent and find ways to reduce the brain drain of its own young people to other markets.
• AmCham Taipei suggests that the government reexamine outdated labor regulations that are geared toward factory operations and are increasingly incompatible with the needs of a knowledge-based economy. The overly restrictive rules on working hours inhibit the kind of lifestyle flexibility that knowledge workers thrive on, as well as the innovation and creativity that employers seek.
• Also needed is the loosening or removal of restrictions on the hiring of foreign professionals. The Ma administration last year announced some positive changes, but later shelved the implementation. The Chamber urges the new government to revive and implement those planned reforms. Among the benefits will be a more conducive environment for startup enterprises.
• Foreign white-collar employees should not be viewed as threats to local job-seekers. Rather, they will help boost Taiwan’s economic competitiveness, leading to more job opportunities overall. Having overseas professionals as co-workers will also enable local employees to develop a more international mindset.

STRENGTHENING THE BUSINESS ENVIRONMENT
• AmCham Taipei member companies regard Taiwan as an excellent place to do business due to such attributes as its high-caliber workforce, sound legal system, and excellent quality of life. But the investment climate is facing increasing challenges: excessive regulatory hurdles, potential exclusion from regional trade blocs, insufficient world-class professional talent, and uncertainties regarding future energy supply.
• Tackling these problems effectively will require a political environment that fosters rational, open-minded dialogue, without partisan obstructionism and divisiveness.
• Both the KMT and DPP will need to make a difficult adjustment to the reversal of their respective roles as ruling and opposition party. The business community hopes their competition will be a contest of who has the best ideas for governance, not an exercise in maneuvering for short-term advantage.
• Structural reform in the Legislative Yuan will also be beneficial, such as longer tenures for committee chairs and more budget for research staff.
• The Tsai administration has proposed placing increased emphasis on five emerging industrial sectors: biotech, green energy, the Internet of Things, precision machinery, and defense industries. AmCham Taipei has member companies with broad expertise and experience in these areas who will be pleased to provide their support.
聚焦經濟
■ 蔡英文接任總統的此時，也是台灣必須面對出口下跌、所得停滯、消費者與投資人信心不足等等挑戰，在經濟上相當艱困的時期。
■ 新政府必須全力以赴重振經濟。雖然受許多無法掌控的因素影響，台灣要迅速逆轉局勢似乎不可能，但新政府在執政「就職百日」中所營造的氣氛，對於民間信心有極大影響。

改善法規制訂程序
■ 台北市美國商會要呼籲蔡英文政府盡早開始關注行政程序法的革新。當法規制訂的程序在各個機關都公開透明、協調一致，並且給利害關係人充足機會去提供意見，政府與企業的效能都會提高。建立「第2代」行政程序法，更有助於達成蔡總統所提改進政府公共溝通能力、在政策制訂時擴大公民參與的目標。
■ 美國的行政程序法相關實行措施，包括利用《聯邦公報》與www.regulations.gov 網站等成效卓著的作法，值得台灣參考。美國聯邦政府機構也必須針對所收到的公眾意見做出回應。
■ 商會籲請新政府設立一個隸屬於行政院的高位階工作小組，專司行政程序法改革事務，包括為所有新法規草案確立一段最短60天的公眾評論期，並建立單一網站作為資訊溝通平台。
■ 如果行政程序法的制度健全，許多《台灣白皮書》的議題，應該可以避免發生。最新《白皮書》所收錄的類似議題，即包括了化學品登記制度、某些食品相關法規，以及農藥審核流程。

為進入TPP努力
■ 推動行政程序法的改革，也能展現台灣積極預備加入TPP第2輪候選成員國的誠意。台灣經濟如此倚賴出口，絕不能被排除在這個多邊貿易協議之外。但台灣也必須證明自己能符合TPP的高標準。
■ 會呼籲新政府持續針對前屆政府所執行「落差分析」的結果，將台灣法律、法規中與TPP要求不一致的條款移除，竭力符合TPP成立宗旨，為貨物、服務的跨國流通排除障礙。
■ 檢視各項落差時，台灣難免要面對一些敏感、具爭議性的貿易議題。新政府的因應決策，必須建立在廣獲接受的國際標準及可靠的科學證據。
■ 雖然關於美國國會何時或甚至是否支持美國加入TPP，仍有諸多的不確定。台灣不能只是靜觀其變，不就鬆綁貿易法規上再接再厲。其實無論TPP是否成立，這些努力都很關鍵。提昇台灣的競爭力，把台灣與全球經貿網路做更緊密的連接，會帶來經濟、政策及社會上的各種效益。
■ 考量到韓國這個貿易競爭對手在推動自由貿易協定上頗有成果，也積極爭取在第2輪協商加入TPP，台灣必須確保自己是TPP協商國家眼中極具潛力的第2輪候選成員。
■ 如果建立TPP的努力未果，台灣仍然比以往任何時期都需要美國等主要貿易夥伴的強力支持，才能真正避免被邊緣化，或者過度向中國市場傾斜。

吸引尖端人才
■ 為確保經濟競爭力，台灣需要吸引更多外國人才，並且設法緩減台灣年輕人才外流至其他市場的現象。
■ 台北市美國商會建議政府檢討過時的勞動法規，因為現行法規是針對昔日工廠生產模式所擬定，與現代知識型經濟的需求越來越不相容。工時過於嚴格的規定對知識工作者來說，會奪走生活型態中非常重要的彈性，進而扼殺雇主追求的創新與創意。
■ 政府也應該放棄或廢止對於聘用外國專業人才的限制。馬政府去年宣布若干正面的變革，但後來並未執行。台北市美國商會敦促新政府落實這些改革計畫。這麼做的好處之一，是使得台灣的環境更適合新創公司的成立。
■ 外國白領員工不應被視為本地求職者的威脅。事實上，他們有助於提升台灣的經濟競爭力，使整體就業機會增加。有外國專業人士當同事，也有益於本地員工國際視野養成。

進一步改善經商環境
■ 本商會會員企業認為台灣有絕佳的經商環境，優越的條件包括員工素質良好，法律制度健全，還有極佳的生活品質。但台灣的投資環境面臨越來越多的挑戰：法規障礙過多、有可能被排除在區域自由貿易組織之外、世界級的專業人才不足，還有未來的能源供應的不確定性。
■ 台灣要有個可以任用理性、開放的態度討論問題的政治環境，才能有效因應以上的問題，政黨之間不能再相互攻防。
■ 立法院若能進行結構性的改革，也將有所助益。例如延長委員會召集人的任期以及增加研究幕僚的預算。
■ 蔡英文政府宣稱將推動生技、綠能、物聯網、精密機械與國防工業等五項具有良好發展潛力的產業，以刺激經濟成長。台北市美國商會會員企業在這些方面具有廣泛的專長與經驗，而且樂於提供支持。
New Government, New Opportunities

ZEROING IN ON THE ECONOMY

Publication of this year’s AmCham Taipei White Paper comes at a particularly momentous juncture for Taiwan. In a political watershed, a new government took office less than two weeks ago, with the Democratic Progressive Party for the first time controlling both the executive and legislative branches. President and DPP Chairperson Tsai Ing-wen takes the reins at a time when the Taiwan economy has been facing one of the most difficult periods in recent memory, characterized by sagging export performance, stagnant income levels, and faint consumer and investment confidence. Adding to the pressure on the incoming administration, the public holds exceedingly high expectations for its performance, while there is certain to be no shortage of external issues competing for the new officials’ attention.

In these circumstances, the government’s best option is to focus with intensity on ways to reinvigorate the economy. Achieving a rapid turnaround is unlikely, especially since much of Taiwan’s economic momentum depends on the strength of international trade flows and is mostly beyond its own control. But the atmosphere established at the very beginning of a new administration – the proverbial “first hundred days” – can have immense impact. For the government to set clear directions and inspiring but realistic objectives would help lift morale from the current malaise, as would demonstrating that it is taking concrete action toward resolving longstanding knotty problems. Such a psychological boost can bring substantive improvement in consumer spending and business’s willingness to consider investment plans. And with economic recovery, Taiwan will have greater confidence and more resources in facing both domestic and external challenges.

IMPROVING THE RULES-MAKING PROCESS

In setting that early agenda, AmCham Taipei encourages the Tsai administration to make reform of the Administrative Procedure Act (APA) a central component. The APA, which governs the process by which government regulations are decided upon and implemented, is relatively unknown except to lawyers and civil servants. Yet if the rules-making process is treated correctly, it can have a major effect on government and business efficiency, serving to inject more vigor into the economy.

Under the existing system, each government agency has its own practices as to whether to announce proposed new or revised regulations for review by potentially affected parties. When an announcement is issued, the amount of time allowed for public comment may vary considerably (sometimes it is as short as seven days), and few agencies actually respond to the comments they receive. In addition, the announcements are posted on the agency’s own website in its own format, often with little continuing attention to ensure that hyperlinks are in fact working.

The U.S. APA offers an effective model that Taiwan could use for reference. Proposed regulatory changes by all federal government agencies across the board are printed in the daily Federal Register and can also be accessed online. Stakeholders and members of the public have ample time to make their views known, and the authorities are required to respond to the general thrust of those comments. Through the website www.regulations.gov, whose motto is “Your Voice in Federal Decision-Making,” it is also easy to track when comments are due, review statements that others have already submitted, and post one’s own comments.

In the interest of greater consistency, predictability, and transparency in the rules-making process, AmCham Taipei urges the new government to take up the creation of a “second-generation” APA as one of its priority tasks. The mission, which would support President Tsai’s stated objectives of enhancing the government’s public communications and encouraging broader participation in policy development, is best undertaken early in the administration’s term of office before agencies have settled too deeply into comfortable routines.

As a first step, we suggest that the government create a high-level task force under the Executive Yuan, perhaps supervised by a Minister without Portfolio or the National Development Council, to oversee this effort. That role is unsuitable for any individual ministry, as it would lack the authority to bring other ministries in line if they are reluctant to accept procedural reform. After consultation within the executive branch, the task force would prepare draft legislation. Among the key points in that bill should be the establishment of a minimum 60-day public-comment period for all proposed new regulations (not just for trade and investment-related regulations as proposed by the Ministry of Justice), with the requirement that the proposing agency reply to major suggestions by either accepting them or explaining the grounds for their rejection. Even before
The new process should appeal to the DPP government as a concrete, systematic way of engaging Taiwan’s public in the workings of government. In fact, the change would benefit both the regulated and the regulators. The increased transparency and participation would contribute to the perception of fairness in the rules-making system and help to raise the quality and ultimate effectiveness of the regulations. When widespread consultation has occurred beforehand, government officers will face fewer complaints that new regulations are unreasonable or even so impractical as to be unenforceable.

One reason AmCham Taipei is placing such stress on the need for APA reform is that looking over the issues cited in the Taiwan White Paper over the years, we find that many might never have arisen if a more robust administrative-procedure system had been in place. A few issues from this latest edition of the White Paper can serve as examples:

- The recent imposition of border control guidelines on chemical commodities, linking their importation to the chemical substance registration system. Besides being a unique-to-Taiwan procedure, it went into effect April 1 without prior notice or the provision of a grace period. The Chemical Manufacturers Committee notes that the system serves little purpose but places a huge burden on companies in terms of data collection and analysis. Although the program is technically voluntary, those that do not participate may be subject to audits.

- Various food-related regulations issued by the Taiwan Food and Drug Administration (TFDA). These include requirements, also unique in the world, that even subcomponents serving no technical function in the final product must be listed on the label, and that the size of the fine imposed on violators of the food-safety law be based in part on the amount of the company’s sales or paid-in capital.

- A new procedure introduced last year by the Council of Agriculture, to synchronize the registration of pesticides with the assignment of maximum residue levels in crops. According to the Agro-Chemical Committee, the change threatens to undo previous progress in accelerating the registration system to reduce the time to market for new pesticides.

In these cases, stakeholders had insufficient opportunity to provide feedback on the practical implications of proposed regulations before they were announced. Increased public engagement would help make the rules-making process both more transparent and more effective.

**BURNISHING TPP CREDENTIALS**

Another reason why the launching of APA reform would be highly significant is that it would provide further solid evidence of Taiwan’s seriousness about promoting its candidacy for second-round membership in the Trans-Pacific Partnership (TPP) trade bloc. The 12 current prospective TPP countries – which include such important trading partners for Taiwan as the United States, Japan, Canada, and Australia – completed their negotiations last year. Although the parliaments of the various countries have not yet ratified the document, preparations are already underway in each market for putting the TPP provisions into force.

If TPP comes into being, Taiwan – an economy that depends on international trade as its lifeline – cannot afford to be left out for long. Exclusion would mean the shifting of many current supply chains to nearby TPP countries. In addition, Taiwan would have less opportunity to diversify export markets to avoid over-reliance on the Chinese economy, and its ability to attract foreign investment – already at low levels compared to nearly all neighboring countries – would become even more difficult.

The decision on which countries to allow into a second tranche will be determined by the existing 12 negotiating parties, with unanimous consent required. Taiwan must therefore satisfy those countries that it is prepared to live up to the high standards that the TPP is designed to promote. And in case China should try to exert pressure behind the scenes to block or delay Taiwan’s entry, Taiwan had best present such a stellar case that no one could credibly deny its qualifications for membership.

During the past year and a half, the Ma administration made a start toward readying Taiwan’s candidacy for a TPP bid. Government departments were asked to undertake a “gap analysis,” identifying laws and regulations that would need revision to bring them into alignment with TPP requirements. That report has now been handed over to the new government. AmCham Taipei urges the Tsai administration and Legislative Yuan to work diligently to close the gaps that have not been identified and to go beyond removing specific discrepancies in the letter of the law to fully embracing the TPP spirit of breaking down trade barriers and facilitating the flow of goods and services across borders.

In the course of that review, Taiwan will inevitably have to confront some sensitive and controversial trade issues. To retain the good will of its trading partners, Taiwan’s decisions should be based on accepted international standards and sound scientific evidence.

Admittedly, with anti-free-trade sentiment currently being amplified in the United States during the heated presidential election campaign, uncertainty has grown as to when or even whether the U.S. Congress will give its endorsement to American participation in the TPP. Some commentators in
Taiwan have therefore drawn the conclusion that this country can bide its time before further liberalizing its trade regime, waiting to see whether TPP materializes.

That would be a mistake. Bringing Taiwan’s regulations in line with international standards and practices should not be viewed as a concession to the United States or a ticket to being punched simply to gain admission to the TPP club. Rather, that step would be of tremendous value in itself, whether or not TPP exists. The advantage would be both economic and strategic, enhancing Taiwan’s competitiveness and efficiency, and tying her more closely to the global community.

In addition, other Asia-Pacific countries are starting to aggressively promote their TPP candidacies, and Taiwan must ensure that it continues to be a prominent part of the conversation. Korea, Taiwan’s trade rival, is sure to top the list of TPP second-round contenders. Considering Korea’s substantial edge over Taiwan in entering into free-trade agreements, including KORUS with the United States, it would be a serious blow to Taiwan’s competitiveness if Korea, but not Taiwan, were to gain TPP entry. This is no time to be complacent.

Should the effort to create TPP falter, moreover, Taiwan would still need the active support of the United States and other major trading partners, perhaps more than ever. In the absence of TPP, Taiwan would want to avoid isolation, marginalization, and overconcentration on the Chinese market by pursuing bilateral FTAs, investment agreements, and other types of arrangements with the United States and other friendly nations. To make itself an attractive partner for such agreements, Taiwan would need to engage in the same kinds of reform as are relevant for TPP membership.

ENSURING A STABLE ENERGY SUPPLY

The maintenance of an adequate, reliable supply of electrical power is crucial for any economy, but for Taiwan its importance is especially high. For semiconductor manufacturing and many of the other high-tech industries that form the backbone of the Taiwan economy, the briefest interruption in power supply or fluctuation in voltage can mean huge monetary losses from damaged equipment and lost production. In addition, Taiwan faces special challenges in assuring steady and sufficient electrical power. Poor in natural resources, it must depend on imports for nearly all of its basic energy needs, and as an island, it cannot readily borrow energy from the grids of neighboring countries to meet contingencies.

Political constraints have also complicated the picture. Nuclear plants currently account for 17% of electricity generation, but both major political parties have supported the phase-out of nuclear power over the coming decade. At the same time, Taiwan, though formally excluded from international carbon-abatement protocols, has voluntarily committed to reducing its greenhouse-gas emissions by 20% by 2030 and 50% by 2050, compared to a base line of 2005 emissions. It is uncertain how that goal can be met while closing nuclear plants, as it appears that a significant portion of the replacement power will have to come from facilities burning fossil fuels.

Certainly every effort should be made to reduce power consumption through heightened efficiency, and to foster the use of renewable energies such as wind and solar. Taiwan reportedly has some of the world’s best potential sites for offshore wind farms, and effective incentives need to be put in place to encourage investment in those projects and the introduction of the latest technology. But it remains unclear whether conservation and shifts to renewable energy can enable Taiwan to fulfill its dual objectives of meeting its stated carbon-reduction commitments and providing industry with a sufficient, predictable energy supply at reasonable cost. Industrial operations in Taiwan, both foreign-invested and domestic, will be looking to the new government to issue a clear, realistic and data-driven national energy plan to help them to proceed with confidence in carrying out their own planning for the years ahead.

Ensuring the availability of sufficient water resources is another infrastructure issue requiring serious attention. Taiwan goes through cycles of severe droughts followed by periods of flooding, and the increasing extreme weather patterns brought on by global climate change will only exacerbate that condition. Taiwan’s industry and agriculture are both heavy users of water, and currently enjoy some of the lowest water tariffs in the world. To foster conservation and necessary investment in infrastructure, those rates will need to be adjusted to more reasonable levels. Other measures worth pursuing include the use of IT technology to curb leakage in the water-supply system and inducements to encourage increased recycling.

ATTRACTING THE BEST AND BRIGHTEST

In the increasingly keen global competition for professional and technical talent, Taiwan has been lagging far behind other countries in the region. Not only is Taiwan failing to attract the volume of foreign talent that would be instrumental in boosting its economic prowess, but large numbers of its own young people choose, usually reluctantly, to seek jobs elsewhere for reasons of salary levels and career-development opportunities. Given Taiwan’s distinct local advantages and leadership opportunities in many fields, the brain drain is regrettable and, we believe, reversible.

As a start in remedying that situation, AmCham Taipei suggests that the government reexamine labor-affairs regulations that are still more relevant to the factory-centered economy of the past than to the knowledge-based society that is now emerging, and that will be the core of Taiwan’s
factor affecting talent recruitment and retention will be teams contributes to optimum performance. Employers of creative professionals care less about the number of hours put in than the quality and on-time delivery of results, and employees appreciate that working environment. Yet the labor authorities in recent months have been conducting increased inspections of white-collar businesses and imposing fines on companies found to be noncompliant with these outmoded restrictions.

Another important step in bringing Taiwan’s labor regulations into the modern age would be to loosen, or even remove, the current restrictions on the hiring of foreign professionals. These include the requirement that the prospective employee hold a university degree, have two years of work experience, and be paid a set minimum salary, and that the employing company have a certain level of capitalization. For years, AmCham Taipei has advocated the revision of these counter-productive requirements, and last year it appeared that the government had agreed. However, changes announced by the Ma administration were later reversed when some opposition was voiced.

The Chamber encourages the new government to revive and implement those planned reforms. A key consideration should be the relevance to Taiwan’s drive to promote the development of startup companies to gain the benefit of the vigor they bring to an economy. Startups are often unlikely to meet minimum-capital requirements, and they are nurtured by the enthusiasm and creativity of young talent. It makes scant difference whether those employees have college degrees or previous work experience (Microsoft, Apple, and Facebook, for example, were all built by college dropouts).

A chief objection to opening the job market to overseas talent is that it would reduce work opportunities for Taiwanese job-seekers, but the numbers involved are unlikely to have a major impact on nationwide employment levels. More pertinent is that the foreign professionals bring skills that serve to upgrade the competitiveness of Taiwan industry, while their presence also helps their domestic colleagues develop the more international mindsets needed in today’s business world. Enterprises and institutions around the globe have learned that diversity in research and management contributes to optimum performance.

While regulatory change will help, in the end the biggest factor affecting talent recruitment and retention will be the overall vitality of the economy, and the perceived opportunity for existing businesses to grow and new industries to develop.

### STRENGTHENING THE BUSINESS ENVIRONMENT

As consistently shown in AmCham Taipei’s annual Business Climate Survey, Chamber members regard Taiwan as an excellent place to do business, citing such attributes as its high-caliber workforce, sound legal system, and excellent quality of life. But as mentioned above, Taiwan’s investment climate has been facing increasing challenges: excessive regulatory hurdles, potential exclusion from regional trade blocs, uncertainties regarding future energy supply, and insufficient world-class professional talent.

Tackling these problems effectively will be possible only within a political environment that fosters rational, open-minded discussion of issues, followed by collaborative efforts to work toward practical solutions. Partisan obstructionism and divisiveness are bound to be the enemy of progress. AmCham is aware of the irony of our making this point at a time when the U.S. political scene is reaching new depths of acrimony and discord, but we have seen how damaging such disharmony can be for American society and are loath to see it repeated in Taiwan.

As the Kuomintang and DPP reverse their roles as ruling and opposition parties, both will be undergoing a difficult adjustment. The business community hopes that their competition will be a contest of who has the best ideas for governance, not an exercise in maneuvering for short-term advantage. An environment most conducive to economic prosperity will be created if the legislature fosters an atmosphere in which the majority respects the views of the minority, but the minority refrains from opposing merely for the sake of opposing. Structural reforms can also play a major role in increasing the efficiency and effectiveness of the legislative process. Longer tenures for committee chairmen and more budget for research staff, for example, would contribute to the quality and professionalism of legislation.

Finally, the Tsai administration is proposing to help spur the economy by placing increased emphasis on five industrial sectors with good potential for growth: biotech, green energy, the Internet of Things, smart machinery, and defense industries. In all of these areas, AmCham Taipei has member companies with broad expertise and experience who would be pleased to participate in this effort. At the same time, we note that the five emerging industries will need to rely on backing from Taiwan’s long-established industrial sectors (including IT, steel, and chemicals), as well as its financial-service institutions, to assure their smooth development. The Chamber pledges its support as the authorities seek to develop broad-based programs and policies to reenergize the Taiwan economy.
聚焦經濟

台北市美國商會《2016台灣白皮書》出版的時間，也是台灣所面臨的關鍵時刻。值此政權交替關頭，上台不到兩星期的新政府，代表了前所未有的政治版圖：民進黨同時掌握行政、立法兩大政府部門。當總統兼黨主席蔡英文接掌政權，台灣經濟遭逢了近年來前所未有的艱辛時期，出口表現不振，消費者、投資者都欠缺信心。當民眾對於新政府的表現抱以極高期望，外部議題又接踵而至，需要新政府官員分心關注，再再都增加新政府的壓力。

在這個情況下，新政府的最佳選項，是竭盡全力設法重振經濟。神速的逆轉勝似無可能，更何況台灣的經濟動能受國際貿易流通影響甚大，其變化也很難掌控。然而，新政府在運作之初，即大眾俗知的「就職百日」期間，所營造的氣氛，可能造成極大影響。新政府若能指出明確的施政方向，設定激勵人心卻又貼近現實的目標，既可提振士氣，亦能昭告國人它將採取實際行動解決長期以來的難解問題。用這種方式塑造積極氛圍，能幫助民間消費支出，對企業投資意願有實質的提升。一旦經濟復甦，台灣將更有信心、更有資源去面對國內、外的挑戰。

改善法規制訂程序

台北市美國商會在此呼籲蔡英文政府，在開始設定施政方針時，即把行政程序法的改革視為核心要務。行政程序法，本來旨在規範政府訂定與實施法規的程序，但在法律界及公務體系之外，熟悉此法的人很少。如果正確合理地利用法規制訂程序，對於新政府的行政效率、企業的營運效能，都會有巨大影響，而且能為經濟注入更多活力。

在現行制度下，各個行政機關對於是否預告法規新案或修正草案，開放利害關係人檢閱，實務作法各異。草案內容預告之後，允許民眾陳述意見的期間長短差別也很大（有時僅7天），對民間意見確實做回覆的行政機關為數並不多。此外，預告內容通常是以這個機關特有的格式公佈於其網站，通常不太留意檔案超連結的功能是否正常。

對民進黨政府而言，應該可以善用這個新的程序，用確實、有條不紊的方式，讓大眾更能有效參與政府的施政運作。實際上，這樣的變革對於受法規影響者與法規制定者，都極有裨益。朝公開透明、擴大參與的方向邁進，會使法規制定系統在人民眼中更顯公平，也能使法規本身的品牌與最終的成效提高。法規推行之前，若有廣泛徵詢民間意見，政府官員就不容易聽到有人抱怨新法規不合理，或是批評法規偏離了實務，難以實施。

商會對於行政程序法相關改革如此重視，重要理由之一，乃是回顧歷年收錄於《台灣白皮書》的議題，再再顯示：若有更健全的行政程序法施行措施，許多議題恐怕都不會發生。在此，我們列出這最新一本《台灣白皮書》中的幾個議題：

• 新的規範把化學品的進口與化學物質登錄系統做了連結，使化學製品必須承受更嚴格的物品入境限制。這個規定不僅是台灣獨有，它4月1日生效施之前，並未通知廠商，亦未提供緩衝期。商會的化學製造商委員會表示，這個規定不讓化學製品貿易，對產業沒有幫助。
須在資料蒐集與分析上耗費更多成本的廠商而言，更是
的一大負擔。即便這個規定並非硬性規範所有廠商都需遵
守，但是沒有主動遵守規定的廠商，卻可能遭到稽查。

食品藥物管理署所公佈的數項食品相關規定，包括了台
灣獨有的規定：必須標示成品中沒有特定功能之次級
成份，而且企業一旦違反食品法規，主管機關判定
其所需繳納罰金的金額時，企業的銷售額或實收資本額
也是依據之一。

農委會去年公佈的新規定，要求進行農藥查驗登記時，
同步確定農作中最大農藥殘留量。商會農業化學委員會
認為，這種新規範可能把過去查證查證登記流程改良加
速的成果抹煞殆盡，限制了業者推廣新農藥的時間。

上述實例中，相關業者在法規修正草案公佈前，並沒有充
份機會對於草案內容對實務上的衝擊提出回應。而公眾參與的
擴大，會使法規制訂程序更加公開透明，收效更加顯著。

為進入TPP努力

推動行政程序法改革很重要的另一理由，是這樣的改革，
能明確顯示出，對於爭取成為「跨太平洋夥伴協定」（Trans-
Pacific Partnership, TPP）這個貿易圏的第2輪國家成員國，台
灣的態度非常謹慎積極。目前在12個TPP成員國中，台灣的重
要貿易夥伴如美國、日本、加拿大、澳洲，已經於去年完成協
商。雖然各個國家的會國尚未正式認可協議內容，每一個國家
都已着手進行TPP所涉及的經貿體制變動。

如果TPP正式成立，以國際貿易作為經濟命脈的台灣，將
無法承擔長久無法參與的嚴重後果。如台灣被TPP排除在外，
現在台灣還能掌握的許多供應鍊，將轉移到其他TPP成員
國。此外，台灣將更難使出口市場多元化，對中國的過度倚賴
更難避免，而且台灣要提振與泰半鄰近國家相比都還頗弱的外
資資本能力，機會更加渺茫。台灣能否成為TPP協議的第2
個國家之一，取決於現在12個國家是否能夠同意。台灣因
此必須說服這些國家它已經準備設法符合TPP要求的標準。
萬一中國試圖借此成功阻止或延緩台灣的加入，台灣也必須交出讓各國成員
國家不得不承認台灣絕對具有參加TPP資格的改革成績。

吸引尖端人才

世界各國爭取專業與技術人才的競爭日趨激烈，而台灣在
這方面遠遠落後區域內其他國家。外國人才對於增加台灣的經
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商會的人力資源委員會和科技委員會一致敦促當局，目前
過於嚴苛的工時規定以及有關工作條件的法規，應該與國家的
學生生活及學校教育的趨勢脈絡為基礎，

過去一年半，馬英九政府為台灣爭取加入TPP的準備工作起
了頭。政府各單位被要求執行「落差分析」，深入瞭解有哪些
法律、法規需要修正，以符合TPP的要求。這個分析報告現已
移交給新政府。商會特別呼籲：蔡政府應立即進行落差分析，
把已經確認的若干落差彌補起來。不僅是將各種法條文字中與
TPP有扞格之處盡力移除，更要進一步以TPP的精神打破貿易
障礙，使貨物、服務的跨國流通更能順暢無阻。

這些規定意在保護勞工權益，特別是針對生產線上勞工群
的保障有其必要性。但對知識工作者來說，這些條款卻奪走
了生活型態中非常重要的彈性，進而扼殺現代經濟所需要的創
新。創意專業人士的雇主比較不在意員工的工作時數，他們在
意的是工作品質以及任務是否如期達成，而員工珍惜這種的工
作方式。但勞動主管部門最近幾個月增加對白領企業的檢查，
並對未遵照規定的公司處以罰款。

使台灣的勞動法規與現代接軌的另一個重要步驟是放寬或
廢除目前對於聘用外國專業人士的限制，例如要求有意在台工
作的外籍人士具有大學學歷、有兩年的工資經驗，並且在任職
後必須達到最低薪資的標準，聘僱的公司也必須有一定的資本
額。

台北市美國商會連續數年主張修訂這些有反效果的規定，且政府去年似乎已經
同意。但在出現若干反對聲音之後，馬政府所宣布的這些變革在後期出現了逆轉。

商會鼓勵新政府恢復並落實改革。台灣想要推動新創企業
的發展，以取得此類企業為經濟注入的新活力。進而政府應

務作法接軌，不應該被看成是對美國的讓步，或者只是為獲
准加入TPP俱樂部而有的虛應故事。恰恰相反，無論TPP相關
協議是否存在，為了加入TPP所作的各種努力，本身就有極高
價值。推動改革，其實兼具經濟與策略層面的效益，可以提
升台灣的競爭力及效能，把台灣與全球經貿網路更緊密地連
接在了一起。此外，亞太區域中其他國家正努力爭取加入TPP，台灣有必
要確保自己仍是相關討論中不容忽視的部份。台灣的貿易競爭
對手—韓國，在TPP第2輪候選成員國的名單中，排名佔有絕
對優勢。考量到韓國在推動自由貿易協定上，已超越台灣，
例如已與美國簽署的美韓自由貿易協定（KORUS）。如果不是
台灣而是韓國先行搶入TPP，那對台灣的打擊會很嚴重。因此
時間有限，台灣絕不能掉以輕心。

就算建立TPP協議的努力未果，贏得美國等重要貿易夥伴
的鼎力支持，對台灣依然重要，意義甚至遠超以往。若沒有
TPP，台灣還是得極力避免被孤立、被邊緣化，也要持續努力
與美國等友善國家的雙邊貿易及投資協定，以及其他互利協
議。若要吸引其他國家與台灣簽署相關協議，台灣更不能不去
推動與加入TPP所需內涵相似的法規改革。

吸引尖端人才

世界各國爭取專業與技術人才的競爭日趨激烈，而台灣在
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學生生活及學校教育的趨勢脈絡為基礎，
體察新創公司不太可能符合最低資本額的規定。同時，他們
靠的是年輕人的熱情與創意，至於這些年輕人是否有大學
學歷或工作經驗並不重要。微軟、蘋果與臉書就是由大學中
輟生所創立。

反對對外國人士開放本國就業市場的一個主要考量，是在
於此舉可能會排擠台灣民眾的就業機會。雇用外籍人才
的数目不太可能對台灣整體就業率產生重大影響。真正的關鍵
在於外籍專業人士所帶來的技能將有助於台灣產業競爭力的提
升，況且與外籍人士共事，本地人員亦可培養其國際觀。而這
是今天的商業環境所需要的。全球各國的企業與機構都已發
現，研發與管理團隊的多樣性越高，越能激化出最高的成效。

進一步改善經商環境

台北市美國商會歷年的台灣商業景氣調查顯示，商會會員
認為台灣有絕佳的經商環境。優越的條件包括員工素質良好、
法律制度健全、還有極佳的生活品質。但如上所述，台灣的投
資環境面臨越來越多的挑戰包括：法規障礙過多、有可能被排
除在區域自由貿易組織之外、未來能源供應的不確定性以及世
界級的專業人才不足。

台灣要保有可以用理性、開放的態度討論問題的政府，
而且要能共同努力尋求務實的解決方案。唯有這樣，才能有
效因應以上的問題。政黨之間相互為難與社會的分歧，必然成
為進步的阻力。台北市美國商會瞭解，我們此時這麼說有點諷
刺，因為美國政壇相互攻訐與紛擾的情況空前嚴重，但我們知
道如此分裂的情況對美國社會造成多大的傷害，因此很不願意
看到台灣也出現同樣的現象。

隨著國民黨與民進黨執政與在野的角色互換，兩黨將經歷
一段艱辛的調適期。企業界希望他們之間的競爭，是關於誰能
提出治理國家最好的構想，而不是為了短期的利益進行攻防。
如果立法院能營造一個氣氛，讓多數黨尊重少數黨的意見，少
數黨也能不為了反對而反對，就可以創造出對經濟繁榮發展最
為有利的環境。結構性的改革也將有助於提高立法過程的效率
與效能，例如延長委員會召集人的任期以及增加研究幕僚的預
算，都可以幫助提升立法的品質與專業水準。

臨時，蔡英文政府主張強化推動五個具有良好發展潛力的
產業，以刺激經濟的成長：生技、綠能、物聯網、智慧機械與
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企業未來數年的計畫。
Suggestion 1: Continue to broaden and deepen the bilateral relationship with Taiwan.

Although the United States and Taiwan have not had formal diplomatic relations since 1979, the unofficial relationship between them – built on a foundation of shared democratic values, strong commercial ties, and close cooperation in a broad range of fields – has grown increasingly robust over the decades. In testimony earlier this year before the House Foreign Affairs Committee, Deputy Assistant Secretary of State Susan Thornton referred to the relationship as a “vital partnership.” Last year, Taiwan ranked as the United States’ ninth largest trading partner, with total two-way trade in goods of US$66 billion, and each year Taiwan sends one of the largest delegations to the SelectUSA summit promoting investment into the United States. In what will be a tangible symbol of the U.S. commitment to Taiwan, construction of new facilities to house the American Institute in Taiwan, the organization representing U.S. interests in the absence of a formal embassy, is nearing completion.

Going forward, the U.S.-Taiwan relationship is likely to take on even greater importance due to changing geopolitical conditions, including the stated U.S. intention to “rebalance” toward Asia, tensions in the South China Sea, and questions about how cross-Strait relations may be affected by the recent transfer of power in Taiwan. At the same time, Taiwan is looking to reinvigorate its economy and diversify its trade and investment to avoid overconcentration on the single market of China. Taiwan considers accession to the Trans-Pacific Partnership (TPP) in the trade agreement’s second round to be crucial for avoiding economic marginalization.

AmCham Taipei urges the U.S. government to take the following steps to further bolster the bilateral relationship:

- **Support Taiwan’s efforts to prepare its candidacy for TPP membership.** Free trade agreements such as TPP are currently a controversial topic in the United States, and opinions on its merits differ even within the business community. But if TPP does come into being, it is vital for Taiwan to enter in the second tranche, and that may require active support from the United States if China seeks to pressure member countries to block or delay Taiwan’s entry. Exclusion from TPP would be devastating for the export-reliant Taiwan economy, especially if trade rival Korea gains membership. AmCham Taipei therefore hopes that strong American support will be forthcoming in order to give the Taiwan government the confidence to satisfy trading partners of its commitment to international standards and practices, even when domestic opposition is voiced by certain sectors.

Bringing Taiwan into TPP is very much in the interests of the United States, for both economic and strategic reasons. Taiwan is a key part of the supply chain for many leading U.S. technology companies, who will wish to ensure that Taiwan maintains its competitiveness as a dependable source of supply. In addition, including an economy of Taiwan’s trading prowess in TPP will add to the pact’s strength and scope, furthering business opportunities for American companies. Taiwan’s GDP is larger than that of 7 of the current 12 economies in TPP. From the strategic perspective, helping to assure Taiwan’s economic prosperity and according it more international space will contribute to preserving its role as a force for democracy and human rights in East Asia.

- **Continue to help Taiwan participate in pertinent international organizations.** China’s opposition and lack of membership in the United Nations have kept Taiwan out of most international organizations, but in recent years the United States has sought to help Taiwan gain more access through observer status, especially in organizations with a direct impact on people’s health, safety, and well-being.

Since 2009, Taiwan – under the name “Chinese Taipei” – has been able to attend the annual World Health Assembly as an observer. The invitation to attend was extended this year as well, but only at the last minute – after widespread speculation had built up that China was obstructing the invitation to send a warning message to then President-elect Tsai – and with the added political tinge of an explicit reference to “One China.” It would be far better for Taiwan’s observer status to be formalized, rather than dependent on year-to-year invitations.

In 2013, Taiwan failed – despite U.S. backing – to obtain observer status at the general assembly of the International Civil Aviation Organization, though its representatives in the end were able to attend as “special guests” of the ICAO president. The assembly meets only every three years, with the next meeting scheduled for September this year in Montreal. Hopefully, Taiwan’s Civil Aeronautics Administration will be able to take part this time with an institutionalized role as a recognized observer.
Congress and President Obama have also supported Taiwan’s bid for participation in the International Criminal Police Organization, commonly known as Interpol, with as yet unknown results. As with public health and air safety, Taiwan deserves access to vital information concerning terrorist threats and cross-border criminal activity.

- **Increase visits to Taiwan by high-level U.S. officials.** The frequency of such visits has grown significantly over the past few years. Environmental Protection Agency Administrator Gina McCarthy’s trip to Taiwan in 2014 marked the first time in 14 years that a Cabinet-rank U.S. official stepped foot on the island. Among the other important American officials to visit in recent years were Assistant Secretary of State for Economic and Business Affairs Charles Rivkin in 2015 and Assistant Secretary of Commerce Marcus Jadotte just last month. These visits are significant symbolically as evidence of the continuing strong bilateral relationship, but their substantive value is even more important. Administrator McCarthy’s visit led to expanded cooperation on environmental projects, Assistant Secretary Rivkin paved the way for a successful initial Digital Economy Forum last fall, and Assistant Secretary Jadotte led a trade delegation exploring business opportunities in the sphere of cyber security.

Considering the potential political sensitivity of such visits due to Beijing’s inevitable objections, the final months of an administration may be a good time to engage in the most high-profile trips. We encourage the Obama administration to use this opportunity to send another Cabinet-level official to Taiwan. And we hope that the next U.S. administration will continue, or better yet expand, the practice of arranging for regular high-level contacts.

- **Make optimal use of the TIFA process.** For various reasons, the U.S.-Taiwan trade negotiations under the Trade and Investment Framework Agreement (TIFA), normally held in the spring, did not take place last year until the fall. It is now expected that the autumn schedule will be retained for the 2016 TIFA Council to be held in Washington, D.C. With the Tsai Ing-wen administration just settling into office, that timing will be highly appropriate.

The TIFA talks have provided a constructive platform for discussing outstanding trade issues. Besides the major annual meeting, the Chamber encourages the Office of the U.S. Trade Representative (USTR) and Taiwan’s Office of Trade Negotiations (OTN) to engage in more frequent dialogue throughout the year, including regular contact by the task forces on investment issues and technical barriers to trade.

- **Further expand areas of bilateral cooperation.** The United States and Taiwan have engaged in highly successful cooperative programs in fields such as environmental protection. Last year they held a successful Digital Economy Forum, which explored potential cooperation in such areas as enhancing regional and global ICT connectivity, protecting data privacy, and ensuring online IPR protection. The two sides in 2015 also signed an MOU creating the Global Cooperation and Training Framework, through which the United States will help Taiwan use its expertise and experience to train personnel from other countries in areas such as women’s rights, public health, and energy security. Broad opportunities exist for undertaking similar programs in many other fields.

Through all of these efforts, an already strong relationship can be made even stronger.

**Suggestion 2: Implement tax reforms to relieve burdens on Americans overseas and help promote U.S. exports.**

AmCham Taipei endorses the following proposals advocated by the Asia-Pacific Council of American Chambers of Commerce (APCAC):

- **Revise the income-tax system to base tax liability on residence rather than citizenship.** The United States has the dubious distinction of being one of only three countries in the world – the others are North Korea and Eritrea – that requires its citizens living abroad to pay income tax, even though they are not utilizing national services. The result is to put Americans and U.S. companies at a competitive disadvantage and deter the employment of U.S. citizens overseas, with a negative impact on the export of American products and services.

- **Amend the Foreign Account Tax Compliance Act (FATCA) to eliminate burdensome and unnecessary reporting requirements that cause law-abiding Americans residing overseas to bear enormous financial and legal burdens.** Retail banking and securities accounts held in the country where the taxpayer is resident should be exempt from reporting requirements under FATCA and the Foreign Bank Account Report (FBAR). This “Same Country Safe Harbor” provision would treat the financial accounts of expatriate Americans in their country of residence the same way as it treats the U.S. accounts of Americans residing in the United States. It would preserve the intent of FATCA to fight tax evasion but alleviate the onerous and costly burden borne by American citizens living and doing business abroad.

U.S. exports cannot be effectively promoted without American businesspeople on the scene in international markets. Their presence abroad should not be discouraged by taxation or other policies.
**BY THE NUMBERS**

**GRAPH 1: ECONOMIC GROWTH RATE**

Unit: %

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

**GRAPH 2: PRIVATE DOMESTIC INVESTMENT**

Unit: NT$ billion

Source: National Statistics, R.O.C.

**GRAPH 3: FOREIGN DIRECT INVESTMENT**

Unit: US$ billion

Source: Ministry of Economic Affairs (MOEA)

**GRAPH 4: TOTAL FOREIGN TRADE**

Unit: US$ billion

Source: Ministry of Economic Affairs (MOEA)

**GRAPH 5: KEY ECONOMIC INDICATORS**

<table>
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<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross National Savings</td>
<td>28.36%</td>
<td>27.62%</td>
<td>31.68%</td>
<td>29.97%</td>
<td>28.83%</td>
<td>29.12%</td>
<td>31.16%</td>
<td>30.45%</td>
</tr>
<tr>
<td>Unemployment</td>
<td>4.14%</td>
<td>5.85%</td>
<td>5.21%</td>
<td>4.39%</td>
<td>4.24%</td>
<td>4.18%</td>
<td>3.96%</td>
<td>3.78%</td>
</tr>
<tr>
<td>Inflation (CPI)</td>
<td>3.53%</td>
<td>-0.87%</td>
<td>0.96%</td>
<td>1.42%</td>
<td>1.93%</td>
<td>0.79%</td>
<td>1.20%</td>
<td>-0.31%</td>
</tr>
</tbody>
</table>

Sources: DGBAS, Central Bank
Contact AmCham to order additional copies of the Taiwan White Paper. The price, including postage and handling, is NT$300 per copy in Taiwan, US$15 to the Americas and Europe, and US$13 within Asia.
The chart below is a status review of all priority issues in the 2015 Taiwan White Paper. The progress of each issue is rated according to the following standards:

1—Solved: Conclusive action has been taken on the issue, with a fair and transparent record of implementation.

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

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

4—Stalled: No substantial discernible progress has occurred.

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

Out of 76 issues raised in the 2015 White Paper, 6 are rated Solved, 8 In Progress, 35 Under Observation, 23 Stalled and 2 Dropped.

### 2015 White Paper Issues

<table>
<thead>
<tr>
<th>Committee</th>
<th>2015 White Paper Issues</th>
<th>Rating 2016 WP</th>
<th>Notes 2016 Status</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agro-Chemical</strong></td>
<td>1. Simplify review standards for overseas field trials on chemical performance and residual levels.</td>
<td>2</td>
<td></td>
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<tr>
<td></td>
<td>2. For the registration of generic products, require every company to submit relevant toxicological data to the competent authorities to prove product safety.</td>
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</tr>
<tr>
<td><strong>Asset Management</strong></td>
<td>1. Adopt more flexible application procedures for the delegation of onshore-fund investment decisions.</td>
<td>4 *</td>
<td>changed to &quot;Require toxicological test data for technical and formulated grade pesticides that have been registered for 15 years or more.&quot;</td>
</tr>
<tr>
<td></td>
<td>2. Allow foreign-currency discretionary investment management accounts to invest in the foreign-currency-share class of NT$-denominated onshore funds.</td>
<td>1</td>
<td></td>
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<tr>
<td></td>
<td>3. Encourage the healthy development of multi-asset products.</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td><strong>Banking</strong></td>
<td>1. Further broaden opportunities for offshore product development and distribution.</td>
<td>4 *</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Further relax regulations on financial services to build Taiwan into a regional wealth-management hub.</td>
<td>4</td>
<td>changed to &quot;Allow banks to provide financing to customers by using their financial assets under trust from the lending bank as collateral.&quot;</td>
</tr>
<tr>
<td></td>
<td>3. Expand the scope of bond products provided in Taiwan.</td>
<td>2</td>
<td></td>
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<tr>
<td></td>
<td>4. Provide banks with greater operational flexibility in line with international best practices.</td>
<td>1</td>
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<tr>
<td></td>
<td>5. Exempt counter-guarantees offered between banks from the existing related-party transaction regulation.</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td><strong>Capital Markets</strong></td>
<td>1. Review and relax securities investment rules on institutional investors so as to support market growth.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Revise regulations to enhance market efficiencies and competitiveness.</td>
<td>3</td>
<td></td>
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<tr>
<td></td>
<td>3. Support the enhancement of cross-strait capital market activities.</td>
<td>3 *</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Further expand the qualification for Taiwanese companies to set up Level 1 ADRs, and allow unsponsored DRs.</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td><strong>Chemical Manufacturers</strong></td>
<td>1. Provide more flexibility for exemptions for new chemical substance registration under the PPORD category.</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Ensure that Confidential Business Information (CBI) receives adequate protection.</td>
<td>3 *</td>
<td>changed to &quot;Improve the protection of Confidential Business Information (CBI) with regard to chemical substance disclosure.&quot;</td>
</tr>
<tr>
<td></td>
<td>3. Harmonize the existing-chemical regulatory process between EPA and MOL.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>Custom and International Trade</strong></td>
<td>1. Expand the scope of the advance customs valuation.</td>
<td>4</td>
<td></td>
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<tr>
<td></td>
<td>2. Reduce criminal penalties for exporters who voluntarily disclose violations of export-control regulations.</td>
<td>3 *</td>
<td>changed to &quot;Encourage voluntary disclosure of export-control regime violations and make it easier for companies to check on potential importers.&quot;</td>
</tr>
<tr>
<td></td>
<td>3. Harmonize product classifications between Customs and other government agencies.</td>
<td>3</td>
<td></td>
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<tr>
<td><strong>Human Resources</strong></td>
<td>1. Review the proposed draft of the Protection of Dispatch Workers Act.</td>
<td>4</td>
<td></td>
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<tr>
<td></td>
<td>2. Make the regulation of work schedules more flexible.</td>
<td>4</td>
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<tr>
<td></td>
<td>3. Revise work permit and visa requirements to help attract more outside talent.</td>
<td>3 *</td>
<td>changed to &quot;Create more incentives to attract foreign talent and keep domestic talent.&quot;</td>
</tr>
<tr>
<td><strong>Infrastructure</strong></td>
<td>1. Guarantee Adequate Power Supply for Northern Taiwan.</td>
<td>4 *</td>
<td>changed to &quot;Ensure that Taiwan's power supply continues to be sufficient, reliable, and competitively priced.&quot;</td>
</tr>
<tr>
<td></td>
<td>2. Reconsider the offshore reprocessing policy for nuclear spent fuel.</td>
<td>4</td>
<td></td>
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<tr>
<td></td>
<td>3. Adopt a long-term, holistic plan for water supply management, benchmarking world-class systems.</td>
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<tr>
<td></td>
<td>4. Modify BOT/RPP laws and regulations to attract more participation by foreign investors.</td>
<td>4</td>
<td></td>
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<tr>
<td></td>
<td>5. Further open the government procurement market to international companies.</td>
<td>4 *</td>
<td>changed to &quot;Attract more foreign companies to participate in the government procurement market.&quot;</td>
</tr>
<tr>
<td><strong>Insurance</strong></td>
<td>1. Increase the convenience and ease for consumers to obtain protection insurance.</td>
<td>3</td>
<td>changed to &quot;Continue to increase the convenience for consumers to obtain protection insurance.&quot;</td>
</tr>
<tr>
<td></td>
<td>2. Mitigate the serious unintended consequences posed by the increase in the business tax rate for insurance companies.</td>
<td>4 *</td>
<td>changed to &quot;Alleviate the undue financial pressure stemming from unintended consequences of increasing the business tax rate for insurance companies.&quot;</td>
</tr>
<tr>
<td></td>
<td>3. Promote the introduction of protection and retirement insurance products in view of Taiwan's becoming an aged society.</td>
<td>4</td>
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<tr>
<td></td>
<td>4. Simplify the non-life product filing process to meet commercial market needs.</td>
<td>2</td>
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<tr>
<td></td>
<td>5. Improve the insurance industry's financial strength.</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td><strong>Intellectual Property &amp; Licensing</strong></td>
<td>1. Remove all unjustified, unreasonable, or discriminatory regulations imposed on the Copyright Collective Management System (CCMCO).</td>
<td>4 *</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Make needed revisions to the Copyright Act.</td>
<td>2</td>
<td></td>
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<tr>
<td></td>
<td>3. Adopt effective measures to deal with online copyright infringement.</td>
<td>4 *</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Institute more effective controls over the import of counterfeit and smuggled goods.</td>
<td>3</td>
<td></td>
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<td></td>
<td>5. Increase the rate at which the IPR Court grants evidence-preservation orders.</td>
<td>4 *</td>
<td>changed to &quot;Strengthen the IP Court's willingness to grant more evidence-preservation orders and award reasonable damages.&quot;</td>
</tr>
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<table>
<thead>
<tr>
<th>Medical Devices</th>
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<tbody>
<tr>
<td>1. Speed up the review of new medical devices by providing temporary self-pay</td>
<td>3</td>
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<tr>
<td>codes for new therapeutic procedures.</td>
<td></td>
</tr>
</tbody>
</table>
| 2. Manage the patient-paid portion of Balance Billing in an equitable way.      | 4 * changed to "Establish a rational system for medical device reimbursement."
| 3. Rapid, Streamlined, Transparent and Consistent Medical Device Review System  | 3 * changed to "Streamline the medical device review system and make it more transparent and consistent."
| 4. To Develop Explicit and Complete Development Policy for Medical Devices      | 3 |

<table>
<thead>
<tr>
<th>Others - chiropractic</th>
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</thead>
<tbody>
<tr>
<td>Permit foreign-licensed doctors of chiropractic to practice their profession</td>
<td>3</td>
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<td>with appropriate status.</td>
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<table>
<thead>
<tr>
<th>Others - Tobacco</th>
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</thead>
<tbody>
<tr>
<td>1. Adopt tobacco tax and surplus policies that prevent illegal products from</td>
<td>3</td>
</tr>
<tr>
<td>damaging the legitimate tobacco market and cutting into tax revenues.</td>
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</tr>
</tbody>
</table>
| 2. Adopt effective, proportionate tobacco-control policies to prevent any     | 3 * changed to "Consult widely within government and with stakeholders before adopting tobacco regulatory measures to avoid international trade disputes and other unforeseen consequences."
| negative impact on international trade obligations.                           |   |

<table>
<thead>
<tr>
<th>Pharmaceutical</th>
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</table>
| 1. Build a transparent, predictable reimbursement review process to secure     | 2 * changed to "Consult widely within government and with stakeholders before adopting tobacco regulatory measures to avoid international trade disputes and other unforeseen consequences."
| early access to innovative medicines.                                         |   |
| 2. Establish a fair, reasonable, and non-discriminatory price-adjustment       | 3 * changed to "Continue to strengthen IPR protection for innovative products, so as to ensure that the investment environment rewards innovation."
| mechanism for pharmaceutical products.                                        |   |
| 3. Implement a rigorous system of Separation of Dispensing from Prescribing    | 4 |
| (SDP).                                                                         |   |

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<thead>
<tr>
<th>Public Health</th>
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<tbody>
<tr>
<td>1. Expedite the implementation of safety-engineered needles.</td>
<td>3</td>
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<tr>
<td>2. Expand the antimicrobial stewardship program to cut down the misuse of</td>
<td>3</td>
</tr>
<tr>
<td>antibiotics.</td>
<td></td>
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</tbody>
</table>
| 3. Place increased emphasis on preventive healthcare.                          | 3 * changed to "Put increased emphasis on preventive medicine, including increasing the budget for vaccination and stabilizing the National Vaccine Fund."

<table>
<thead>
<tr>
<th>Real Estate</th>
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</table>
| 1. Allow legal entities to provide valuation services.                          | 3 * changed to "Implement reforms in the treatment of real estate value appraisers."
| 2. Simply the application process for domestic insurers to invest overseas.     | 3 |
| 3. Speed up and simplify the sluggish urban renewal process.                    | 3 |

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<thead>
<tr>
<th>Sustainable Development</th>
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<tbody>
<tr>
<td>1. Set a clear timeframe for expansion of the Green Mark policy on virgin-fiber</td>
<td>3</td>
</tr>
<tr>
<td>paper/issue product categories.</td>
<td></td>
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<tr>
<td>2. Consider sustainability and lifecycle costs when deciding on power-plant</td>
<td>4</td>
</tr>
<tr>
<td>construction.</td>
<td></td>
</tr>
<tr>
<td>3. Launch an incentive program for scrapping aged passenger vehicles.</td>
<td>1</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Tax</th>
<th></th>
</tr>
</thead>
</table>
| 1. Lower the top individual income tax rate to attract high-caliber individuals  | 3 * changed to "Reduce Taiwan's tax policies with the aim of creating a favorable and competitive environment for attracting high-caliber professionals."
| to work in Taiwan, and continue tax reforms to decrease the tax burden on     |   |
| salary earners.                                                                |   |
| 2. Prepare for the establishment of an independent tax court to protect       | 3 |
| taxpayers' rights and improve the tax system.                                  |   |

<table>
<thead>
<tr>
<th>Technology</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>1. Use public-sector data governance to facilitate transition to the Cloud.</td>
<td>3 *</td>
</tr>
<tr>
<td>2. Amend the IT Services Platform Contract to build a favorable environment for</td>
<td></td>
</tr>
<tr>
<td>innovation.</td>
<td></td>
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<tr>
<td>3. Allow dynamic spectrum access, such as unlicensed and shared access to</td>
<td>1</td>
</tr>
<tr>
<td>unused TV broadcast channels, to increase spectrum utilization and efficiency.</td>
<td></td>
</tr>
<tr>
<td>4. Increase IT expenditure to boost national competitiveness.</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Telecommunications &amp; Media</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Solidify Taiwan’s leading position for mobile broadband.</td>
<td>5</td>
</tr>
<tr>
<td>2. Build a healthy IPR environment for OTT.</td>
<td>4</td>
</tr>
<tr>
<td>3. Build a strong foundation for the Digital Convergence Era.</td>
<td>3</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Transportation</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Lift the requirement for commercial automobile businesses to rent outside</td>
<td>4</td>
</tr>
<tr>
<td>parking spaces.</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Travel &amp; Tourism</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Step up efforts to attract, train, and retain international-standard</td>
<td>3 *</td>
</tr>
<tr>
<td>hospitality professionals.</td>
<td></td>
</tr>
<tr>
<td>2. Devote more effort and resources to expanding Taiwan’s MICE segment.</td>
<td>3 *</td>
</tr>
<tr>
<td>3. Pass the Tourism Casino Administration Act as early as possible.</td>
<td>5</td>
</tr>
<tr>
<td>4. Provide tourist-friendly car rental services at all airport terminals.</td>
<td>4</td>
</tr>
</tbody>
</table>

Note: * indicates the issue has been raised again in 2016 White Paper

By Erica Lai
Last Updated: May 24, 2016
以下為《2015台灣白皮書》優先議題的處理進度，各議題評估標準如下：

1—已解決：政府已針對議題達成結論性的決定並付諸實行，或已有公開、透明的執行績效。換言之，所提的議題已不再是問題。
2—有具體進展：該議題目前正由政府進行後續追蹤，其進度令人滿意。
3—觀察中：政府相關單位已注意到該議題，但後續發展仍待觀察。
4—擱置中：該議題無實質可見的進度。
5—已刪除：該議題雖尚未解決，但已不再是委員會優先議題。

《2015台灣白皮書》所提出76項議題，其中6項已解決，8項處理中，35項觀察中，25項擱置中，2項已刪除。
1. 審查新診療項目時先提供暫時診療項目自費代碼，並編列相對應之新醫材暫時自費碼以加速新科技術之運用

2. 合理公平地管理差額負擔之病患自付價格

3. 迅速精簡及透明一致之醫療器材審查制度

4. 建構明確完善的醫療器材發展政策

其他-脊骨神經醫學

允許持有外國執照的脊骨神經醫師在合適的位階下執行脊醫專業

其他-菸品

1. 為防範非法菸品戕害合法菸品市場及造成政府稅收損失，應採行妥適之菸品稅捐政策

2. 為避免影響台灣應履行的國際貿易義務，政府應採行有效且合乎比例的菸品管控政策

製藥

1. 建構透明可預測的給付審查系統，確保病患及早使用創新藥品

2. 建立公平、合理、且無差別待遇的藥價調整方案

3. 執行嚴謹的醫藥分業政策

公共衛生

1. 衛福部加速落實安全針具相關政策

2. 擴大施行抗生素管理計畫，減少抗生素濫用

3. 預防醫療的重視

不動產

1. 修正「不動產估價師法」，推動估價師事務所法人化

2. 簡化壽險業者申請境外投資流程

3. 加速及簡化都更程序，形塑都市新風貌

零售

1. 基因改造(GM)食品原料標示法規與主要貿易夥伴一致並給予合理實施時程

2. 確保食品安全法規的制定應有科學證據並具有可行性

3. 期待廣告自律的早期成果能持續進展

4. 重新修訂化粧品法制以避免形成技術貿易障礙

5. 進一步放寬中國進口的商品的限制

永續發展

1. 訂出明確時間表，將新修正的原生紙漿面紙環保標章標準，全面延伸至取得國際永續森林機構驗證之所有家庭用紙產品

2. 以永續性與生命週期成本來決定發電廠興建計畫

3. 提出積極的補助計劃，以淘汰超過10年的老舊高齡小客車輛

稅務

1. 調降現行綜合所得稅最高稅率45%以吸引高階經理人才，持續公平稅制改革並逐步減輕廣大受薪階層之綜合所得稅負擔

2. 籌劃設立獨立的財稅專門法院，以保障納稅人權利及改善稅制

科技

1. 建立政府資料監管制度有效運用雲端資源

2. 修正政府資訊服務採購規範，營造有利創新之公平環境

3. 允許動態頻譜接取，例如閒置的電視頻道，給予無需頻譜執照的共享應用，以增進頻譜利用及效率

4. 增加政府資訊支出加速國家競爭力

電信及媒體

1. 鞏固臺灣在行動寬頻的領先地位

2. 建構OTT健全智慧財產權保護制度

3. 建立一個基礎穩固的數位匯流時代

交通運輸

1. 建議取消汽車運輸業停車場設置規定

旅遊與觀光

1. 投入更多心力吸引、培訓與聘僱優質國際觀光旅遊業專業人才，以建立並長期維繫國際化的服務水準

2. 投入更多心力與資源以加強台灣國際會展產業(MICE)發展

3. 儘速完成《觀光賭場管理條例》的立法程序

4. 各機場航廈提供友善且便利的租車服務

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AGRO-CHEMICAL

The Agro-Chemical Committee wishes to thank the Bureau of Animal and Plant Health Inspection and Quarantine (BAPHIQ) of the Council of Agriculture (COA) for its revisions to Articles 45 and 46 of the Agro-pesticides Management Act, which were passed by the Legislative Yuan in December 2015. In order to effectively deter illegal pesticides and protect public health, the amended articles clearly define and raise the penalties for manufacturing, processing, repackaging, importing, or selling prohibited agro-pesticides, or storing and displaying them with the intention of engaging in business activity.

In addition, the Committee would also like to thank the COA’s Taiwan Agricultural Chemicals and Toxic Substances Research Institute (TACTRI) for devising a set of review standards to ensure consistency in the treatment of foreign test reports on field efficacy and residues. Owing to the new standards, which are closer to international practice, most of the domestic and foreign test reports submitted by manufacturers recently have been able to pass the review.

This is now the sixth year of the “new” registration system for pesticides, and with assistance from BAPHIQ and TACTRI, manufacturers of pesticides had been gradually becoming more familiar with the system. However, last year the procedure was changed so as to synchronize pesticide registration with the setting of maximum residue limits (MRLs) of pesticides in crops – a change that threatens to undo the progress made under the accelerated registration process. In addition, the lengthy review processes by BAPHIQ for field efficacy, phytotoxicity, and residue tests significantly slow down the registration process. Improvement in this area is urgently needed.

We would also like to point out that the extended application range of pesticide field-testing principles adopted by BAPHIQ, as well as the classification of crop types for residue tests, differ from the classification of agricultural crops used by the Ministry of Health and Welfare (MOHW), creating inefficiencies and confusion. We urge the two agencies to harmonize the standards.

To strengthen environmental protection and food safety, we propose that toxicity assessments be conducted on pesticides in use for 15 years or more, and we expect BAPHIQ to devise fair, comprehensive, and reasonable criteria and review standards for such assessments.

In view of the low level of investment in our sector due to the long registration process and short period of patent protection, the Committee would like to make the following recommendations:

Suggestion 1: Shorten the registration process.

1.1 Set MRLs simultaneously with the registration review.

When pesticides are registered, it currently takes about five to six months for the COA’s Agricultural Advisory Committee to complete its review, at which point the MOHW’s Food Sanitation, Safety and Nutrition Advisory Committee takes up the issue of setting an MRL. BAPHIQ then needs to wait for the MRL to be determined before it can stipulate the method by which the pesticide is to be used on crops.

As a result, from the time the registration has been passed by the Agricultural Advisory Committee, it altogether takes another six to 10 months before BAPHIQ can announce the mode of usage, rendering the accelerated registration process meaningless. In this respect, Taiwan should follow the international trend of conducting the pesticide registration and setting the MRL simultaneously so as to shorten the entire process. We request that the total communication and processing period be reduced to four months. It will benefit to farmers who could apply the new and advanced products as earlier as other countries since the imported crops may be on the application already.

1.2 Standardize the test protocol review process.

Because the current system does not include a set of standards for the biological testing of pesticides, various experts involved in the protocol review process often disagree with one another, causing delays and inefficiency. We recommend using the guidelines on the biological testing of pesticides from other nations, such as the European and Mediterranean Plant Protection Organization (EPPO) or the guidelines of the People’s Republic of China, as reference for standardizing the test methods on pathogens, pests, and weeds for Taiwan’s major crops. To improve efficiency and reduce the workload of TACTRI personnel, the test templates could be applied directly into the protocols.

1.3 Harmonize the pesticide residual test crop-grouping table with the MOHW’s classification of agricultural crops.

BAPHIQ’s extended application scope and grouping system for pesticide field testing are well intentioned and solve the issue of a lack of pesticides for farmers’ use for certain crops and pests. However, the types of crops in the grouping tables for field efficacy and residue tests are often represented as “families,” and are frequently difficult to express clearly in the promulgation of regulations and in labeling. Additionally, these groupings are often inconsistent with the crop classification used by the MOHW. To avoid confusion and misinformation on the part of vendors and users, the
classifications used by BAPHIQ and MOHW should be harmonized.

**Suggestion 2: Require toxicological test data for technical and formulated grade pesticides that have been registered for 15 years or more.**

To ensure the safety of food consumers, the environment, and pesticide users, technical and formulated grade pesticides that have been registered for 15 years or more should provide toxicological test data to ensure the safety of these products. The rule should be applied to all products no matter whether they are original or generic, since different products may contain different ingredients and be manufactured by different processes.

**Suggestion 3: Extend the data protection period on pesticides from 8 years to 10.**

In line with the Taiwan Intellectual Property Office’s extension of the patent period from 18 years to 20 years for all chemical products, we propose that the data protection period likewise be extended from eight years to 10 to help alleviate the burden caused by the long and costly nature of the current pesticide registration system. This change will increase companies’ willingness to invest in environmentally friendly new products to replace the more toxic existing ones. Consumers will benefit from a food safety perspective.

The Committee again urges the relevant authorities to shorten the registration process and set up fair and reasonable assessment criteria to address the challenges that the authorities, industry, and users are facing and to further enhance environmental safety, food security, and people’s health.

**ASSET MANAGEMENT**

The Committee notes that the Financial Supervisory Commission (FSC) made certain important policy changes last year aimed at creating a more flexible regulatory environment for the asset management industry. The measures included aligning the definition of high-yield bonds for onshore fund with global standards, permitting local industry personnel to serve a regional role, increasing the investment ratio of Rule 144A securities for onshore funds, allowing onshore funds’ fee rebate to the discretionary investment mandate (DIM), etc. These policy changes were in line with the Committee’s expectations and will ultimately benefit investors. We look forward to seeing more policy reforms, and recommend that the FSC undertake further regulatory relaxation so as to increase the Taiwan asset management industry’s competitive advantages and broaden Taiwan’s exposure in the Asian region.

In addition, the Committee expresses its appreciation to the FSC for responding to the proposals set out in the 2015 White Paper. In particular, the Committee is grateful to the FSC for the time and effort it devoted to collaborating with the U.S. Securities and Exchange Commission to work out arrangements for the outsourcing of Taiwan onshore funds’ investment-management function to a U.S. entity. We also appreciate the effort of the FSC and the Central Bank of the Republic of China to allow a foreign currency fund to invest in the foreign-currency share class of NTD-denominated onshore funds.

The Committee looks forward to cooperating with the FSC to further grow the onshore fund business and enhance the cultivation of local talent to work in the industry. The Committee heartily supports the FSC’s efforts to build a better regulatory framework for Taiwan’s asset management industry by increasing the competitiveness and operational efficiency of onshore products and assuring a level playing field for onshore and offshore funds.

In addition, the Committee notes that the Hong Kong-China mutual fund recognition scheme became effective last July, which will bring great opportunities for the growth of Hong Kong’s asset management industry. Considering the trend of regional integration in Asia and the benefits of first-mover advantage, the Committee strongly encourages the FSC to pursue a Mutual Recognition of Funds (MRF) agreement between Taiwan and China so as to broaden the Taiwan onshore fund market.

**Suggestion 1: Continue to relax the regulatory restrictions on onshore funds and DIM accounts, and align policy with global practice.**

1. **Delegate non-core functions of portfolio management in the best interest of investors.** Cash management is deemed a non-core function of portfolio management but cannot be delegated to a third party. However, the FSC allows onshore funds to delegate foreign currency conversion and FX hedging management to third parties, although this provision does not apply to discretionary investment management (DIM) accounts.

The centralization of cash and FX management in the hands of specialists would enable portfolio managers to focus on their core functions: investment research and decision-making. Furthermore, it could reduce transaction costs and help to prevent errors through integrated models using the latest FX trading and FX management technology. To achieve this centralization, the Committee proposes that cash management for onshore funds and DIM accounts be allowed to be delegated to a dedicated team, along with the delegation of FX management for DIM accounts.

We also suggest permitting use of a broader range of FX strategies and tools, such as outright long positions between foreign currencies, non-delivery forwards (NDF),
and swap between NT dollars and foreign currencies. These approaches would increase the efficiency and flexibility of FX and cash management.

1.2 Encourage the healthy development of multi-asset products. As proposed in the 2015 White Paper, the Committee supports the addition of a new type of fund type, “multi-asset,” in the overall fund classification mix in line with the global trend for greater flexibility in fund investments.

Under the current regulations, pool funds are categorized under such classifications as equity, fixed-income, balanced, money market, and fund of funds. The allowable proportion of securities investment is specified for each type of fund. According to feedback from the FSC, multi-asset funds are categorized as balanced funds. Ordinarily, however, balanced funds are considered to follow a benchmark, although still framed by investment restrictions. An alternative way to introduce multi-asset funds is through special approval. Currently the Securities Investment Trust & Consulting Association (SITCA) is studying global practices with regard to multi-asset funds. Due to market demand internationally, multi-asset funds have been growing rapidly in recent years, reflecting a shift in investors’ preference from traditional benchmark products to more innovative products. The Committee believes that investment restrictions should not present an obstacle to the development of these products, and the Committee therefore endorses the introduction of multi-asset funds as a new classification. This approach would provide local investors with more investment options and follow the global trend of allowing greater flexibility in fund investments. Eventually, the Committee suggests removing the investment restrictions on other asset classes, including equity and fixed-income funds, in line with global trends.

1.3 Enable investment-linked DIM accounts to invest in derivatives for currency-hedging purposes. The FSC has been actively promoting development of the onshore fund industry. Given the recent upward trend in the investment-linked policy (ILP) DIM market, the Committee believes that creation of a sound and flexible regulatory environment for this business would help boost the volume of onshore assets under management. For ILP DIM accounts managed by asset managers, the underlying investments currently cannot include derivatives. If investment in derivatives for currency-hedging purposes could be allowed for ILP DIM accounts, as it is for onshore funds, it would give asset managers greater flexibility to effectively manage ILP DIM accounts to their full potential and thus serve the best interest of investors. In addition, insurance companies would be more willing to engage asset managers to manage ILP DIM accounts.

1.4 Allow NTD-denominated ILP DIM accounts to invest in foreign-currency-denominated securities. The strong market demand for ILP DIM has provided asset managers with scalable and relatively stable insurance assets as compared with retail money through mutual funds. But certain investment restrictions still hinder the performance of ILP DIM accounts. Although asset managers are no longer required to obtain separate approvals from the Central Bank when NTD-denominated DIM accounts invest in foreign securities, this provision does not include NTD-denominated ILP DIM accounts for which insurance companies have appointed asset managers. The Committee requests that the FSC facilitate communication with the Central Bank to enable NTD-denominated ILP DIM accounts to receive the same treatment as other NTD-denominated DIM accounts: the ability to invest in foreign securities without separate approvals from the Central Bank. A more flexible regulatory environment for the ILP DIM business by relaxing the relevant investment restrictions would benefit both the asset management industry and investors over the long term.

1.5 Allow onshore Funds of Funds to trade derivatives in the interest of investment efficiency. The use of derivatives can bring several benefits to the portfolio management of onshore funds. In Taiwan, however, onshore Funds of Funds (FoF) are restricted from using derivatives for any purpose other than hedging, resulting in investment inefficiency. An onshore FoF is in fact not significantly different from any other type of onshore fund, as they all face various investment risks and opportunities and have the same needs for trading derivatives. Countries such as Luxembourg, Singapore, and Korea do not distinguish between different types of onshore funds when regulating derivatives trading. As investment constraints can be obstacles to product innovation, the Committee believes that allowing onshore FoFs to engage in derivatives for both hedging and investment-efficiency purposes will benefit investors by providing more investment options.

1.6 Allow delegation of the investment management function of existing onshore funds without approval. The Committee suggests that the delegation of the investment-management function by an existing onshore fund to an affiliate of the fund’s management company should not require approval by a beneficiaries’ meeting, as the change will not materially impact the interest of the investors. The management company is still obligated to exercise its oversight duties and take responsibility for any actions or omissions on the part of the delegated entity. Investors would benefit from the enhanced investment efficiency under the delegation model.
Suggestion 2: Promote the application of “AUM-based” methodology for calculating distributors’ commissions on fund sales.

In various jurisdictions, including the United Kingdom, Australia, Canada, and many Asian countries, one of the authorities’ main focuses in recent years has been to seek the optimum policy governing the calculation and payment of commission on fund sales. Generally, the controlling principles include an obligation for statutory fee disclosure, a prohibition on claims by fund distributors and financial advisors for commission from the asset management companies (instead, fees should be charged to and paid directly by the investors); consideration of setting a ceiling on the commission that distributors may receive within the first year of a fund’s operation; and restrictions on the payment of fee-based commissions by asset management companies. However, so as to prevent abuse, such as situations in which distributors induce investors to engage in excessive trading in order to gain higher commissions, commissions would be allowed if calculated on the basis of the amount of assets under management (AUM).

The inherent risk in commission payment is the potential conflict of interest. Although the distributor has a fiduciary duty to provide clients with the products that best serve their needs, there is also a financial incentive for the distributor to sell the client the fund with the highest commission. In the Taiwan asset management market, the current fee-based commission design may cause certain distributors to influence clients to conduct extensive trading so that they can earn both sales charges and fee-based commission. Several real cases have shown dramatic increases in a fund’s AUM within a month, generated by a large amount of subscriptions from a specific distributor, followed by a significant outflow the next month as the result of redemptions from the same distributor. For the asset management industry, significant fluctuations in a fund’s AUM present challenges for portfolio managers in making investments, and the extensive short-term trading deviates from what should be the long-term investment concept behind mutual fund products. For investors, the additional costs caused by the extensive trading impose an unfair burden and dilute their investment results.

To avoid the risks and disadvantages associated with fee-based commissions, the regulators have been considering a change in the commission calculation structure from a fee-based to an AUM-based model – for example, one basing the commission on a six-month average as long as the AUM is above the certain threshold. The Committee believes that this change will not only contribute to expanding funds’ AUM, but will also lower the sale costs borne by asset management companies and prevent investment results from being diluted by higher sales charges resulting from overly frequent trading.

Suggestion 3: Implement a member-choice labor pension scheme as soon as possible.

Under the current labor retirement plan, all employees are subject to an identical portfolio and return model. There is no opportunity for customization based on the individual’s actual needs and risk profile so that employees might either choose to invest aggressively in hopes of gaining higher returns for their retirement income or to invest conservatively to minimize risks. The current pension scheme fails to consider various factors that might cause individuals to select different types of investment plans – factors such as the employee’s amount of contribution, retirement age, risk tolerance level, and preferred investment management vehicle.

As a result, employees lack control over their investment risks and returns, which is inconsistent with the purpose of “defined contribution” plans. The Committee therefore urges the FSC to work together with the Labor Pension Fund Committee and the Council of Labor Affairs to transform the current retirement scheme into a “member-choice defined contribution plan” similar to those implemented in such advanced economies as the United States (401K), Australia (Superannuation), Hong Kong (MPF), and Singapore (CPF). Employees would then be able choose a retirement plan based on their individual needs – either to stay in the current scheme where the pension fund is managed by the government with a minimum guaranteed earning or to select appropriate investment objects through member choice platform according to their risk appetite. Considering the continuing low interest-rate environment and employees’ need for diverse retirement plans, the Committee strongly encourages the government to expedite the process for implementing member-choice labor pension scheme.

**BANKING**

The members of the Committee commend the government for engaging in deregulation in a timely and concrete manner to improve the business environment for Taiwan’s banking industry. The Financial Supervisory Commission (FSC), for example, deserves credit for its “Financial Import Substitution Policy” aimed at upgrading the competitiveness of Taiwan’s financial market to an international level. The Committee also highly appreciates the FSC’s newly created business models, the “Bond Agency Platform” and “Financial Derivative Information and Advisory Service,” which are expected to create numerous opportunities for the banking industry. As responsible members of the financial community in Taiwan, we aim to contribute to the sustainable development of the banking industry and to help make Taiwan one of Asia’s financial hubs.

In this year’s paper, we have focused our attention on
The Committee presents the following recommendations for liberalizing the scope of product offerings:

1.1 Lower the rating requirement for issuers selling OSP to retail investors. Since 2011, due to regulatory restrictions on the credit rating of the issuer, the number of issuers who can issue offshore structured products (OSPs) to retail investors in Taiwan has significantly decreased. The situation has almost brought the OSP market in Taiwan to a standstill. Although the FSC lowered the OSP issuer rating in 2014 to S&P A+ (or Fitch A+ and Moody’s A1), the change did not markedly improve the market situation. Taiwan investors still need to pursue investment opportunities from offshore markets, especially from neighboring countries such as Hong Kong where the entry barrier for issuance is lower than in Taiwan. A crucial factor in making Taiwan a more attractive market for these investors will be the variety of products that can be offered through more active participation by the market players. To attract more market participants, the first step is to lower the issuer rating to at least A- as in Hong Kong.

Moreover, using the issuer rating as the only reference for the financial status of the issuer is not the current international practice. It is also noteworthy that the OSP issuers in Taiwan are the leading global banks, which are subject to stringent capital requirements and supervision in their home markets. When lowering the issuer rating, the regulator at the same time may implement rules based on other financial criteria that may truly reflect the financial status of the issuers. The committee believes this approach could best meet the goal of protecting investors’ interests.

1.2 Include PRC-linked bonds in the bond-agency product scope. Despite the generally positive response from the regulators to industry’s longstanding appeal for a relaxation of restrictions on financial products, some operational obstacles continue to constrain the business. To be in compliance with the Basel rules, the global banking industry has had to be very prudent in its risk-taking activities to ensure efficient capital usage and adequacy. Given this market trend, the preferred business model is to run bond trading under an intermediary/agency instead of acting as the principal. Although the FSC has permitted securities firms and banks to trade RMB-denominated bonds in the capacity of principal trading, trade in RMB-linked bonds in the agency booking model has not been allowed – contrary to market expectations. The restriction on the origination/issuing country also still applies with regard to trades of PRC government and corporate bonds by Professional Institutional Investors (PII).

The current restrictions on bond-agency trading create unnecessary obstacles for professional investors’ portfolio management. As China has undoubtedly emerged as one of the world’s most important economies, PRC-linked fixed income instruments and currency exposure have become essential parts of a well-diversified international portfolio, as can be seen from the composition of key international benchmark indexes.

Furthermore, “PRC-linked bonds” as defined in the existing regulations include bonds listed on the Hong Kong and Macao exchanges with the issuing enterprises directly or indirectly owned by PRC government or corporates. These securities are excluded from legitimate investment scope. The defined criteria increase the compliance and supervisory cost involved, given the difficulty of verifying the identity of the major shareholders for each issuer. To meet professional investors’ needs and enable Taiwan to keep up with global financial-market development, the Committee suggests elimination of the current regulatory restrictions on bond agencies regarding tradeable markets and the country of origination of issuers.

1.3 Allow repo/reverse repo to be covered under offshore bond agency licenses. Since January 2014, the FSC has opened the offshore-bond agency business to banks that concurrently operate securities businesses. Several banks have received approval to conduct such business. However, it was later understood from the FSC that repurchase and reverse repurchase (repo/reverse repo) transactions are not covered in the offshore-bond agency license. This interpretation has deprived PII of the ability to obtain short-term liquidity using repo/reverse repo of the offshore bonds that the banks sell to or buy from the PII. Repo/reverse repo is a common funding vehicle used by bond markets worldwide to enable banks to provide secured funding or lend bonds to the PII.
According to the FSC’s previous comments, repo/reverse repo is categorized as securities proprietary trading business and should follow the “Rules Governing the Proprietary Trading of Foreign Bonds by Securities Firms” (the Rules) issued by the Taipei Exchange (TPEx). However, the transactional flows and booking processes of such proprietary trading business are different from those of transactions conducted under brokerage – the offshore bonds agency business. Moreover, according to the Rules, the underlying bonds are required to be registered with the TPEx, but in practice this is not feasible for offshore bonds under the offshore bond agency license.

Repo/reverse repo should be considered an integral part of the offshore-bond agency business. Without repo/reverse repo, banks are unable to provide complete services to a PII when it needs funds or bonds on a short-term basis. The relaxation of this business would help foster a thriving and robust bond market.

1.4 Expand investor eligibility to include SPIs for “offshore bond agency” and “derivatives information and advisory” businesses. In order to achieve the objective of the Financial Import Substitution Policy to retain financial businesses within Taiwan, the FSC in 2014 relaxed regulations dealing with banks’ provision of information and advisory services on offshore derivatives, and with the engagement by securities firms in the offshore-bond agency business. However, the eligible investors for both types of business are limited to banks, insurance companies, and securities firms, defined as PIIs.

In contrast, in 2015 the FSC amended the “Rules Governing Offshore Structured Products (OSP) and the “Regulation Governing Internal Operating Systems and Procedures for Banks Conducting Financial Derivatives Business” to add one more investor category – Senior Professional Investors (SPIs) – to cover corporates that meet four regulatory qualifications and apply to be an SPI. For entities deemed to be an SPI, most regulatory requirements are relaxed for engaging in derivatives transactions and OSPs. Essentially the SPI is treated the same as a PII in these cases.

By the same token, it would also be appropriate to include SPIs as eligible investors for the offshore-bond agency business and the derivatives information and advisory business. Large SPI corporates conduct business globally and actively look for investment opportunities in other countries such as India, Russia, Japan, etc. Due to the constraints of time-zone and language differences, they prefer to contact the main relationship manager in Taiwan, who can assist to communicate with the branches in other countries. This service helps local corporates to achieve better efficiency, while also increasing the banks’ competitiveness. Treating SPIs the same as PIIs would better serve the needs of large local corporates and enhance financial control.

In addition, under the current definition of SPI investors, one of the conditions is that the entity’s net assets exceed NT$20 billion. The Committee suggests allowing this requirement to be met by applying the assets of the corporate’s parent company. Due to strategic considerations, many large local companies use their offshore subsidiaries as invoicing or manufacturing centers. Although the associated foreign-exchange risk is borne by the subsidiary, the risk is generally managed by the parent-level finance center on behalf of the subsidiaries. Broadening the definition of the entity’s size to include the entire group would better capture the corporate client’s business model and allow banks to provide suitable product services.

Suggestion 2: Allow banks to provide financing to customers by using their financial assets under trust from the lending bank as collateral

The Committee highly welcomes the regulatory change that now enables clients to use their mutual fund assets under trust as collateral to obtain financing from a third-party bank. However, treating the third-party bank instead of the trust bank as the financing counterparty creates operational hurdles for the various parties involved.

In international practice, investment product financing is a very common wealth-management service that banks in Hong Kong and Singapore have for years offered to high net-worth and mass-affluent client segments. We suggest that customers be able to pledge the entrusted beneficiary financial assets held with the trust bank as collateral for a loan, as credit by the same bank rather than a third party is far more operationally efficient.

The key benefits of this service include enhanced returns, diversification, and most importantly, liquidity. Currently the investment products are mostly offered through the trust platform, where restrictions have made them unavailable to be pledged for lending. If trust assets could be unleashed from that constraint, it would greatly benefit clients’ financial flexibility and efficiency, while also benefiting the overall banking market.

In comparison, both insurance companies and securities firms are allowed to offer financing services to their direct clients through assets under the firm’s control. Permitting banks to provide a comparable service would significantly facilitate development of the wealth-management business.

The Committee suggests revising existing regulations to enable the banking industry to provide credit to clients who pledge their entrusted financial assets as collateral with the same lending bank.
Suggestion 3: Further relax client qualification for foreign bank branches.

In 2014, the FSC agreed that the five foreign-bank Taiwanese subsidiaries could retain their foreign-bank Taiwanese branch licenses to conduct lending, foreign exchange, and derivatives businesses and to participate in the money market. However, the FSC also imposed a restriction that these retained branches can only serve domestic or foreign corporate clients whose single legal-entity annual turnover is above NT$35 billion. Later, on October 1, 2015, the FSC issued circular no. 10400218620, relaxing the restriction by saying that the NT$35 billion annual turnover requirement would not apply to a newly established company or a company that has not yet started operations, though they would have to meet the NT$35 billion annual turnover level within two years of being granted a bank loan. If the entity is a holding company that has not yet started operations, the annual turnover of its wholly owned subsidiaries can be included in the NT$35 billion requirement calculation.

In the interest of fair and consistent treatment, the Banking Committee recommends that ability to include the annual turnover of wholly owned subsidiaries also be extended to existing holding companies. That change would reflect current accounting principles requiring the parent company and its wholly owned subsidiaries to issue a consolidated financial report, which includes an annual turnover calculation covering both the parent company and wholly owned subsidiaries.

Further, for reasons of internal structure and business diversification, a holding company (or any parent company) will often set up different subsidiaries for different business sectors, and the parent company will draw up financial plans and use appropriate financial services or products, including bank loans, according to the different business needs. These clients should not be restricted to choose financial services based only on the overall business and financial planning needs of the group. The Committee therefore recommends that the FSC lower the annual turnover threshold from the NT$35 billion level. We suggest that the customer qualification criteria be revised to permit branches of foreign banks that also have a subsidiary (as well as permitting the branch’s OBU) to serve clients in the following circumstances:
1. If the borrower’s annual sales are below NT$35 billion, but a parent guarantee is in place and the parent’s annual sales are above NT$35 billion.
2. If the borrower’s annual sales are below NT$35 billion, but there is 100% cash collateral or a stand-by L/C from one of the top 1,000 banks in the world.

Suggestion 4: Allow banking staff to take charge of “bond agency” and “derivative information and advisory” functions concurrently.

The recently initiated “Bond Agency Platform” and “Financial Derivative Information and Advisory Service” business models will significantly increase business opportunities in Taiwan. In order to attract transactions from Taiwanese institutional investors and ensure the competitiveness of Taiwan’s financial industry versus regional financial centers such as Hong Kong and Singapore, we recommend that the FSC allow banking personnel more flexibility in concurrently taking charge of the bond agency and derivative advisory service businesses, sharing the use of offices.

The banking business should not be treated according to the regulatory scheme for the securities business. The operation of banking businesses is subject to the Banking Act, and the regulation governing banks’ provision of financial derivative advisory and information services and the regulation governing banks’ conducting financial derivative business are derived from Article 3, Item 22 of that Act. Recently, the FSC has been promoting its “Financial Import Substitution” proposal, which would allow banks to engage in the derivative business with the aim of expanding the banking industry’s business scope. These business activities are not governed by the Securities and Exchange Act, which covers the securities underwriting, dealing, commission agency, and brokerage and agency businesses, and whose Article 15 prohibits staff from concurrently taking charge of both dealing and brokerage activities.

Conflicts of interests commonly arise in securities agencies, given that staff in the securities dealing section can take advantage of knowledge of what their clients are trading. For that reason, a segregation requirement is applied to securities houses. However, information and advisory services on financial derivatives is a service provided by a bank to meet the client’s demands in accessing financial derivatives products. This practice is unrelated to securities dealing pursuant to the Securities and Exchange Act. As a result, there should be no restriction on the offshore banking industry concurrently using staff to conduct both derivative and bond product businesses.

Concurrently handling derivative and bond products would help staff to increase their expertise, as they would be required to meet certain qualifications and undergo training. They would also be able to provide better service to clients, who are onshore PIIs, as a result of the enhanced service efficiency. The procedures involved in providing these two types of services are identical.

CAPITAL MARKETS

The Committee recognizes the regulators’ continuing efforts to enhance Taiwan’s capital markets. We note with appreciation their responsiveness to our suggestions in facilitating market liberalization and development, such
as extending the scope of securities eligible for securities borrowing and lending and day-trading activities, extending T+2 delivery practice to Emerging Market stocks, etc.

We also applaud the initiatives raised by the government to boost the securities market in Taiwan. As global capital markets are highly connected and compete with one another in growth and development, Taiwan’s capital markets need to continue to align with international market practices and strengthen international competitiveness, and to attract and retain capital investment and talent, particularly at a time when the government is looking to promote its financial import substitution project and revitalize the securities market. In this regard, we continue to present suggestions on supporting the growth of the capital market for the benefit of both local and international participants. As always, the Committee stands ready to assist the Taiwan government in its endeavors to create a fair, open, and competitive financial-services environment and to contribute to boosting Taiwan’s financial industry development.

**Suggestion 1: Support the growth of the Offshore Securities Unit (OSU) market.**

1.1 *Relax the establishment qualification for OSUs.* A new set of rules governing the establishment of OSUs, announced by the Financial Supervisory Commission (FSC) in February 2014, allows foreign investors to access offshore products through an OSU set up in Taiwan. As of February 2016, 17 local securities firms were engaged in the OSU business, but there was a lack of participation by international securities firms due to the high net worth requirement for OSU applications (either above NT$4 billion or NT$10 billion, depending on the type). The situation has impacted market growth and talent retention within Taiwan.

By way of comparison, a January 2016 Central Bank report states that 25 out of the total 62 Offshore Banking Units (OBUs) are operated by foreign banks, accounting for US$24.7 billion or 14% of total OBU assets. The lack of net-worth requirements has enabled the OBU market to boom, contributing to the excellent performance of the banking industry over the past few years. As it has been two years since establishment of the OSU regulation, the Committee urges the regulators to ease the OSU qualification by either 1) lowering the net worth requirement, or 2) allowing foreign securities firms to apply the net worth of their headquarters or parent companies, or else provide an irrevocable guarantee issued by the headquarters or parent company. Relaxing the net-worth criteria would increase the volume of OSU transactions and profits due to the diversified product platforms offered by foreign securities firms. Furthermore, the revised policy would help retain talent onshore as the broader financial market would offer more career opportunities. It would be very much in line with the regulators’ stated principle of Financial Import Substitution, serving to boost Taiwan’s capital market overall.

1.2 *Revise the current regulation permitting only non-residents to purchase unregistered funds through the OSU platform.* According to FSC rulings, for their domestic customers (who are limited to certain classes of professional investors), OSUs can only offer funds or financial products registered or approved by the competent authority. In other words, the OSUs’ domestic customers should have sufficient financial resources and professional knowledge, enabling them to adequately assess the risks associated with trading unregistered funds. The Committee therefore suggests that the FSC expand the scope of services and products that OSUs can provide to these domestic professional investors. This step would make the Taiwan market more competitive with Singapore and Hong Kong, and further the retention in Taiwan of investment funds from domestic professional investors.

**Suggestion 2: Relax securities investment rules, allowing wider participation to foster market growth.**

2.1 *Ease restrictions on the securities borrowing and lending market.* Securities borrowing and lending (SBL) is a common trading practice internationally. Financial regulators generally consider that covered short-selling after stock borrowing actually helps improve the price discovery mechanism and adds liquidity to the market. The Committee expresses its appreciation to the FSC and the Taiwan Stock Exchange for extending the scope of eligible securities and the tenor for SBL trades. We further suggest that the following SBL rules be relaxed to help resolve some of the issues specific to the Taiwan market and to align with international market standards.

a. Daily short-selling cap. The current rule limiting the daily short-selling volume of a borrowed stock to a maximum of 20% of the average trading volume of the stock in the previous 30 trading days is the most stringent among Asian markets. The rule has created trading/hedging risks as investors are sometimes unable to sell their borrowed stocks. The Committee proposes removing or relaxing the daily limit on the short selling of borrowed stocks to support market liquidity and volume. Regulators could still introduce a stricter short-selling limit during a crisis, while maintaining a more relaxed daily limit during normal market conditions. This policy would be in line with the government’s goal of accelerating the internationalization of the Taiwan securities market, and will benefit the entire industry, including lenders,
b. Repatriation of sales proceeds from borrowed stocks. Under the current rules, a foreign institutional investor (FINI) can repatriate sales proceeds from borrowed shares as “capital repatriation” but not as “earnings repatriation.” However, many FINIs have made investments in the market for years and have repatriated most of the capital amount, while retaining a large amount of earnings for continued investments in Taiwan. Other FINIs have maintained a large amount of collateral in Taiwan. The Committee suggests that regulators relax the rule that the sales proceeds from borrowed securities can only be repatriated as “capital.”

2.2 Exempt exchange-listed convertible bonds from the 30% limit of total net-remitted-in-capital. Effective April 22, 2015, the FSC began including corporate bonds and bank debentures within the 30% limit for total net-remitted-in-capital, in addition to government bonds, money market instruments, and premiums paid and net settlement amounts for certain derivatives. The Committee understands that the purpose of the policy is to encourage FINIs to invest more in the stock market rather than in the fixed-income market in Taiwan. The ruling also helps to reduce the possibility of Taiwan Dollar currency speculation. However, convertible bonds, which can be converted into equity, also come within the scope of the 30% limit, as they are considered a type of corporate bond. Convertible bonds in Taiwan are exchange-listed and are traded and settled in the same way as stocks. They generally carry much lower interest rates and the price movements are more closely correlated to those of the equity than fixed-income market. The Committee therefore suggests exempting exchange-listed convertible bonds from the 30% limit so as to benefit the liquidity of the Taiwan market.

2.3 Enable the establishment of unsponsored ADR programs representing Taiwanese listed equity issuers. It has been over a year since the regulator’s announcement in late 2014 allowing Taiwanese listed companies to establish non-capital-raising depository receipt programs on the over-the-counter markets (also known as Level 1 ADRs) in the United States. However, there have been no Taiwanese listed corporate or financial-institution issuers that have proceeded with establishing an inaugural Level 1 ADR program. The reasons are that 1) the 97 companies that were eligible and originally approved for such a program had a FINI holding ratio of 40-70%, and 2) the eligible candidates are concerned about potential negative local regulatory impact that cannot be fully foreseen, as well as about perceived responsibility given that the program is Sponsored. We therefore urge the regulator to revise the regulatory approval to enable the establishment of Unsponsored ADR programs, and secondly to broaden the permitted issuers to include small and mid-cap names that are not necessarily part of an index component.

As of year-end 2015, there were 835 Unsponsored ADR programs across the Asia-Pacific, comprising over 50% of the 1,628 distinct global issuers with Unsponsored ADR programs. Japan (28.5% of outstanding Asian Unsponsored ADR programs), China (16.3%), and Hong Kong (15%) have dominated the Unsponsored ADR programs in the region, while Korea and India are currently liberalizing their rules to enable issuers to participate in Unsponsored ADR programs to fill U.S. demand. This product is also accepted and trusted in markets such as Singapore, the Philippines, Thailand, and Indonesia. Taiwan is a market that would greatly benefit from more exposure to an offshore investor pool that currently has no means to access the Taiwanese equity market.

Another potential benefit of introducing the Unsponsored ADR product in Taiwan would be that locally listed issuers would experience initial trading and investor interaction via the OTC platform in the United States, eventually giving them enough comfort to upgrade to a Sponsored Level 1 ADR program. It provides a way to help close the experience gap. Both program types could flourish and grow as a result, providing mutual benefit to each other and creating more liquidity for Taiwanese corporate issuers.

Suggestion 3: Support the enhancement of cross-Strait capital market activities.

3.1 Relax the qualification of Formosa Bond issuers to include more PRC companies. The Committee appreciates the continuing progress in relaxing the qualifications for Formosa Bond issuers. Yet with very few exceptions, most PRC-incorporated companies still cannot issue Formosa Bonds. Currently, Formosa Bonds issued by PRC companies are only offered to professional investors. In addition, a renminbi (RMB) 45 billion upper limit has been imposed on the total amount of outstanding Formosa Bonds that may be issued by PRC corporations. The limit is quite low compared to the current outstanding balance of RMB deposits in Taiwan, which has exceeded RMB 310 billion. Thus, the risk exposure is minimal.

Besides, professional investors can already invest in RMB bonds issued by PRC companies in other jurisdictions through sub-brokerage. Further relaxation of the issuer qualification would lessen the tendency for Taiwan investors to go offshore to invest in suitable RMB products, strengthen the competitiveness of Taiwan as an offshore RMB center, and provide alternative channels.
for utilization of RMB aside from deposits in the Taipei branch of the Bank of China.

The Committee understands Taiwan regulators’ concerns regarding PRC enterprises’ financial statement transparency and solvency. Thus the Committee suggests initially limiting the qualified PRC enterprises to companies that are listed on either the Shanghai or Shenzhen Stock Exchange and are among the top 50 listed corporations in market capitalization in their respective stock market.

3.2 Relax the PRC shareholding percentage restriction for F-shares, and enact clear standards for determining “PRC persons.”

3.2.1 Lower the threshold of PRC shareholding for foreign issuers applying for listing on a Taiwan stock exchange. Currently, PRC companies applying for listing in Taiwan must incorporate a holding listing vehicle in a non-PRC jurisdiction, and when PRC persons hold more than 30% of the total shares of the listing vehicle, a special approval is required with the preconditions that Taiwanese shareholders have higher shareholding than PRC shareholders and that they have “control” of the listing vehicle.

The market projects that China’s capital market will experience substantial growth in the mid-term and long-term. In addition, capital markets in Asia and America continue to open up to PRC enterprises so as to increase their market capitalization. Thus, the further opening of Taiwan’s capital market to conform to the international trend and catch up with other jurisdictions is worth considering. Otherwise, Taiwan’s capital market may soon be marginalized due its relatively low growth.

Given that the common definition of “control” of a company is a majority shareholding, the Committee suggests increasing the shareholding threshold to 50% for special approval of entities incorporated in a non-PRC jurisdiction to be listed in Taiwan.

3.2.2 Review the definition of a “PRC person” and adopt a predictable and consistent standard. Under current rules, whether an issuer with PRC persons among its shareholders qualifies for listing shall be reviewed based on both the issuer’s legal form and its economic substance. In practice, however, no clear standard exists for “economic substance.”

In addition, companies owned by overseas Chinese constitute the largest source of foreign companies applying for primary listing on Taiwan’s stock exchanges. Many of their shareholders are ethnic Chinese who originally come from the PRC, but have long renounced their PRC citizenship. But they hesitate to explore the opportunity to list in Taiwan, given the uncertainty surrounding regulators’ determination of “PRC persons.”

Further, the Act Governing Relations between the People of the Taiwan Area and the Mainland Area (Cross-Strait Relations Act) and other relevant rulings have specified that a former PRC citizen who has resided overseas for at least four years and has obtained citizenship in the resident country will not be considered a PRC person. The Investment Commission of the Ministry of Economic Affairs adopts the same standard when reviewing PRC investment applications. Thus, the Committee requests that the FSC to adopt the same definition of “PRC person” as the Mainland Affairs Council and the Investment Commission.

3.3 Relax restrictions on Chinese QDIs’ investment in Taiwan. China’s regulations on Qualified Foreign Institutional Investor (QFII) investments into China were largely relaxed in March this year. In particular, the maximum basic quota has been extended from US$1 billion to US$5 billion, and the investment funds can be repatriated out and remitted in again as long as the remitted-in fund does not exceed the approved quota. However, the regulations in Taiwan still impose strict restrictions on investments into Taiwan by Chinese Qualified Domestic Institutional Investors (QDII).

For instance, the investment quota for a single QDII is limited to US$100 million, while the aggregated quota for all QDII is only US$500 million. In addition, a QDII must complete the fund injection for all approved quota within a month of approval, and the investment funds repatriated must be remitted back within six months or the quota will expire.

The QDII are highly regulated by China’s financial regulators (SAFE, CSRC, CBRC and CIRC) and the portfolios are managed by professional fund managers. Moreover, there are already caps, which apply to QDII, on the percentage of holdings in certain restricted industries. Therefore, the Committee suggests relaxation of the aggregated investment quota and removal of the quota timelines. The benefits will include attracting investment by established institutions to the local securities market, enhancing interaction and business development in cross-Strait financial markets, and increasing RMB-related FX/hedging products in the local financial market.

Suggestion 4: Enhance market efficiencies and competitiveness.

4.1 Allow brokers to appoint Account Operators. To attract and retain international broker-dealers and related professional talent, a number of Asian markets have introduced new clearing and settlement options, including
Third Party Clearing (TPC) and/or Account Operators (AO) to provide more flexibility to their member firms. The Committee understands that it may be difficult under the current regulations and infrastructure in Taiwan to introduce TPC. In the shorter-run, we suggest that regulators allow brokers to outsource various operations, including securities and cash settlement processing, safekeeping, asset servicing, reconciliation, reporting, statement generation, etc. to an AO. The benefits to the market would include the following:

- **Flexible cost structure**, replacing fixed cost with variable cost. Brokers will be able to reduce their fixed cost whenever revenue line declines cause brokers to face either smaller margins or loss. With variable cost under the AO model, brokers will be able to maintain operating margin as the model only requires them to incur costs when there are transactions. Broker-dealers are able to free up capital and focus on their areas of expertise in research, dealing, brokerage, and execution, which in turn will attract more investors and talent to the market.

- **Enhanced liquidity/funding**. Brokers could benefit from intraday funding provided by the agent. Should their FINI customers fail to make cash payments to them on the settlement day, brokers will still be able to make payment to the exchange on the settlement day through the credit line funding. This credit facility will allow brokers to obtain funding sources for the next three days while they sort out the failed payment issues with the FINI customers. As a result, they may feel less need to check the availability of cash in the customer’s account on T/T+1.

- **Enhanced market efficiency**. Brokers’ trades will be supported by a few large service providers, allowing higher processing and market settlement efficiencies. The service providers, generally large banks and brokers, have global service centers and local infrastructure to support volume hikes and long-term growth.

- **Greater choice**. The AO model will be additional option for brokers to choose from in addition to the traditional market offering, giving them more flexibility over their business model so as to find the best fit for their business. It will enable Taiwan to maintain competitiveness in its rules and infrastructure against other markets.

### 4.2 Develop electronic tax statements on FINI income

The Committee appreciates that the government is exploring the development of electronic tax statements on FINIs’ income, with access to FINIs’ e-tax statements by the appointed custodians and/or the registered tax agents. Currently the tax statements on FINIs’ income are still paper-based, requiring an extremely high volume of paper usage and excessive time and effort by the local tax agents and custodians for reconciliation, filing, and audit, as well as delaying the FINIs’ ability to repatriate earnings. The Committee urges the government to expedite this development, as it will enhance the competitiveness of the market by shortening the processing and auditing time by the local tax guarantors and agents, reducing the costs for issuers and company registrars in handling tax statements, and protecting the environment by heavily reducing paper usage.

### 4.3 Forgo Saturday trading to align with international practice and reduce settlement risk

In order to allow for three-day weekends at times of certain national holidays, the government declares other Saturdays as make-up working days. The securities and futures markets have followed the same practice. But Saturday trading causes additional operational risks and costs for all stakeholders engaged in the capital market for equities investment by foreign investors. Market executions on the Thursday and Friday prior to the working Saturday require special handling to facilitate clearing and settlement. Meanwhile, client communications on trade affirmation, funding arrangements, foreign-currency conversion, etc. are hard to perform, and the risk of client default or delay in settlement increases because of the closure of international monetary and FX markets on Saturdays.

According to our informal survey, no other global financial markets open on a weekend. Although China has a similar practice that takes Saturday or Sunday as a working day in certain cases, the securities and futures markets remain closed on those occasions. The historical record shows that trading volume on Saturdays is relatively slim. At a time when the government is trying to boost Taiwan’s markets and align with international best practices, Saturday trading is an example of the kind of unusual practice that presents a barrier for international investors. The Committee proposes the cancellation of working Saturdays on the Taiwan securities and futures markets to reduce settlement risks, align with international practice, and thus create a friendlier environment for capital market investment.

### CHEMICAL MANUFACTURERS

The Chemical Manufacturers Committee appreciates the inter-agency cooperation by the Environmental Protection Administration (EPA) and Ministry of Labor (MOL) to develop a harmonized and transparent approach to the Chemical Substances Nomination and Notification (CSNN) process. We look forward to continued initiatives by the EPA and MOL to share proposed new measures related to chemical management with the relevant industrial

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**TAIWAN WHITE PAPER • JUNE 2016**

30 WP
associations, allowing sufficient time for comments and suggestions. In the interest of the smooth and positive development of the industry, we request that the EPA and MOL make public their plans for future evolution of the regulatory structure. We also recommend that the implementation of new regulations and guidelines be treated the same way as with proposed new legislation, with a public hearing conducted at least one month in advance and with a grace period of a minimum of one year provided to industry before the new procedures are implemented.

**Suggestion 1: Improve the protection of Confidential Business Information (CBI) with regard to chemical substance disclosure.**

1.1 Chemical substance disclosure through the Safety Data Sheet.

Taiwan launched Phase 4 of the Globally Harmonized System of Classification and Labeling of Chemicals (GHS) on January 1, 2016, providing a one-year grace period. In line with GHS classification standards, on January 1, 2017 Taiwan will also require chemical companies to make full disclosure of health hazards on a Safety Data Sheet (SDS0053). However, the level of disclosure planned for the Taiwan SDS will far exceed what is required in any other country, with some serious consequences.

The purpose of the SDS is not chemical substance disclosure but to protect labor safety, and the health and safety statements on the SDS are sufficient to indicate the degree of hazard posed by a given product. Disclosing the amount of hazard for each individual chemical substances contained in the product would misrepresent the danger posed by the product as a whole, and could cause misunderstanding and even anxiety among business customers and consumers.

Whether the disclosure of low-hazard ingredients would bring any benefit to the public is uncertain, but such disclosure could easily damage the rights and interests of manufacturers. Over-disclosure would undermine the ability to protect CBI, which is a serious issue because the process in Taiwan for applying to the authorities for CBI protection is extremely difficult and burdensome. This difficulty may deter many companies from applying, and may negatively impact innovation in Taiwan and the willingness of manufacturers to offer products in this market. If industry is unable to adequately protect its trade secrets, the introduction of new technology would be discouraged, to the detriment of the long-term competitiveness of the Taiwan industry. Moreover, it could also be seen by other countries as a trade barrier, leading to potential trade disputes.

We recommend easing the CBI application process, which can be done in ways that bring no added risk to the public. The practice in other countries, including the United States, Japan, Korea, and China can serve as reference, and a positive list of chemical substances could be disclosed with generic names. In addition, implementation next year of the Phase-4 GHS requirements will enhance public safety and help align Taiwan’s practice with other countries.

1.2 CBI with regard to New Chemical Substance Notification.

Applicants for CBI protection for New Chemical Substance Notification are required to pay a fee when first applying and an equal amount again in future to extend the protection period for the same substance or to move the substance to another level of registration, for example from Simplified Registration to Small Quantity Registration, or from Small Quantity Registration to Standard Registration.

A change in the level of registration or extension of the CBI protection period should not be considered a new CBI application. For those cases, the fee should be much less than for a new application.

**Suggestion 2: Reduce the requirement for toxicity tests on animals.**

With increased international attention to animal rights, the global trend is to limit toxicity tests on animals to the minimum that is absolutely necessary. In the meantime, many new and advanced alternative methods are being developed for toxicity testing to reduce the need to expose animals to these risks.

In Taiwan, the Guidance for New and Existing Chemical Substance Registration issued in August 2015 permits the use of (Quantitative) Structure Activity Relationship (QSAR/SAR Estimation) methodology, a simulation software to estimate toxicity, instead of animal testing – but only for tests on physiochemical properties or for skin irritation/corrosion and eye irritation studies. For tests for toxicokinetics or TK (defined as “how a substance gets into the body and what happens to it in the body”), Taiwan continues to require reports based on extensive animal testing, which is very time-consuming and resource-intensive.

Under normal conditions, highly reliable TK data can be derived from physiochemical properties and from toxicity data and models without animal testing. Besides, for non-CMR (carcinogenic, mutagenic and reprotoxic) I & II substances, TK data is not extremely significant for making final hazard, exposure, and risk assessments. In the EU’s REACH system, 75% of the registration dossiers, amounting to a total of some 6,000 dossiers so far, apply read-across methodology – a technique for predicting information for one chemical by using data from another chemical that is similar in terms of structure, properties, and/or activities. In reviewing these dossiers, the European Chemicals Agency...
Suggestion 3: Provide a platform to facilitate Phase II joint registration for existing chemical registration.

In the registration process for chemical substances, if companies must apply individually for each chemical they manufacture or import, the duplication will lead to an unfortunate waste of time, effort, and money – representing a burden for the regulators as well as industry. In some other markets, the authorities have addressed that problem by permitting multiple companies to jointly register a single substance. Since only the government has data identifying the manufacturers and importers, however, it is necessary for the government to first set up a platform enabling companies to identify other makers/importers of the same chemical.

In the European Union, the platform is the Substance Information Exchange Forum (SIEF). As another example, similar infrastructure has been established in South Korea. An opt-out mechanism is available for companies that do not want their business for a given substance to be made public, eliminating concerns about confidentiality.

For use in the upcoming Phase II registration stage, the Committee urges the EPA to consult with industry to design a joint registration program that includes a workable mechanism for matching potential participants.

Suggestion 4: Withdraw the recent guidelines on border control.

On April 1, without prior notice to stakeholders or the provision of a grace period, the EPA issued border control guidelines for Chemical Commodity Importation Pre-confirmation (CCIP), calling for the applicant importer to provide the approval number for every product component being imported, without exception. That task is fairly straightforward for items that have been registered under the New Chemical Substance or Existing Chemical Substance provisions, but it presents a major problem for substances that are not subject to registration requirements because the import volume is less than 100 kilograms per year. Compliance with the guideline would generate a huge workload for all stakeholders – not only for importers in collecting and analyzing the data and uploading it to the database, but also for Customs and the EPA. The new system also creates significant CBI concerns that competitors will be able to identify the formulation of products through the disclosed chemical registration numbers and information.

The above-mentioned program has been presented as optional rather than mandatory. But since companies that do not participate will be prioritized for market audits, importers will feel compelled to comply.

No such linkage of Customs control and chemical substance registration exists under the EU or Korean REACH registration systems, or in any other system around the world that the Committee is aware of. We urge cancellation of the new guideline requiring the provision of registration numbers for individual components, as it should be sufficient for importers to submit a declaration guaranteeing that the import products comply with CSNN.

Suggestion 5: Provide sufficient lead time for Existing Chemical Substance late pre-registration.

The deadline for CSNN pre-registration for Existing Chemical Substances was March 31. Under another new guideline (for CSNN Article 19) issued by the EPA in early April without prior consultation with industry, “late pre-registration” registrants (importers, manufacturers, or local representatives) are required to submit the dossier within 90 days of the date of customs clearance or local manufacture. During the regular “pre-registration” period, in contrast, companies were given seven months to submit the application. Even then, most registrants barely managed to meet the deadline owing to the complexity of the communications involved (with vendors and customers, both foreign and domestic) in preparing the authorization letter and CBI dossier.

For “late pre-registration,” the challenge will be even more daunting. Unlike the one-time “pre-registration,” the new phase is designed as a rolling registration. Companies will have to constantly check on whether the import volume for each product has reached the threshold (100 kilograms per year from 2016), triggering the registration requirement.

We strongly recommend allowing the import/manufacturing records from the previous year to be submitted for late pre-registration. Ending the current 90-day rolling registration would relieve industry of a nearly impossible burden.

HUMAN RESOURCES

The Committee would like to take this opportunity to applaud the Taiwan government’s efforts over the past few years to make the Taiwan employment market more accessible to foreign professionals, and to make relevant laws more complete and comprehensive. The Committee recognizes the need to balance the opening up of Taiwan’s employment market with the revision of relevant labor laws.
regulations in order to increase business competitiveness while at the same time protecting the local labor force.

If Taiwan wishes to bolster its status as an operations center for global companies, it will need a legislative framework for employment issues that supports such development. For globalized operations, questions relating to employee welfare must be balanced with the needs of business in terms of flexibility, efficiency, and optimum use of resources. The Committee believes that a well-balanced legislative framework that encompasses flexibility for business, reasonable protection for employees, and appropriate visa requirements for foreigners will serve to raise Taiwan's profile in the international competition to attract talents.

This year, the Committee is presenting six issues that represent the key areas of concern of its members. The first and the second issues focus on the effort to rationalize the system governing work schedules, including the recording of working hours, regulation of overtime, calculation of average salary, and enhanced consistency of labor inspection standard. The next issues are to regulate the use of labor dispatch through the introduction of a new Protection of Dispatch Workers Act, and in a coordinated issue, the relaxation of the use of fixed-term contracts; the Committee's recommendations outlined below would create greater balance between labor protection and the impact on business. Last but not least, the Committee proposes methods to attract foreign talents and keep domestic ones, so as to create a more competitive and attractive working environment in Taiwan, and proposes enforcement details for the newly amended post-employment non-competition covenants to alleviate the difficulties in applying the new law. These issues reflect the shared desire of the Committee's members to see greater flexibility and predictability in the employment laws in Taiwan.

Suggestion 1: Make the regulation of work schedules more flexible.

According to the 2014 Report on the Manpower Utilization Survey issued by the Directorate General of Budget, Accounting and Statistics, approximately 45% of the Taiwan workforce consists of knowledge-based, white-collar professional workers. In the employment contracts of these workers, salaries are evaluated based on the quality of the work rather than simply on the quantity of working hours. Since promulgation of the Labor Standards Law (LSL) in 1984, Taiwan's economy has developed from its traditional labor-intensive structure to become a knowledge-based, globalized, Internet-based economy. Current labor laws that regulate employer-employee relations based on the traditional labor-intensive model are outdated. In addition, in light of the increasingly aged population and decreasing birth rate in Taiwan, enterprises must enhance labor productivity by helping employees reach a proper balance between family and work. The Committee thus strongly suggests that the LSL be amended to promote greater working hour flexibility to boost employees' working morale and satisfaction.

1.1 Change to a system of “monthly flexible working hours.” Article 30, Paragraph 1 of the LSL states that “the regular working time of workers may not exceed eight hours a day or 40 hours a week.” Although the LSL provides for two-week, four-week, and eight-week periods of flexible working hours, there are still many restrictions that pose an obstacle to meeting the needs of modern-day enterprises and knowledge-based white collar workers. The Committee therefore urges amendment of the LSL to regulate the working hours of these employees on a monthly rather than weekly or daily basis, allowing the employer and the employee to agree on the distribution of working hours over a longer period of time for a relaxed arrangement than being confined by daily or weekly working hour restrictions. This would enhance corporate efficiency while still providing worker protection. Contractual agreement between enterprises and employees should determine which employees come under this system and to what extent.

1.2 Restrict overtime rather than reduce total working hours. Article 30, Paragraph 1 of the LSL was amended in June 2015, effective from January 1, 2016, to reduce statutory working time to 40 hours per week, in response to the current trend for greater work-life balance for employees, as well as to avoid over-fatigue among workers and to fully implement the five-day workweek policy. However, this reduction in working hours inevitably has had a serious impact on industry. Fundamentally, the problem is not the number of hours in the regular work schedule, but rather the amount of overtime that workers may put in. As a complement to the 40-hour workweek, the Committee suggests that the statutory cap for overtime hours be increased to 60 hours per month.

1.3 Eliminate attendance records for knowledge-based workers. Article 30, Paragraphs 5 and 6 of the LSL require that “employers shall prepare and maintain worker attendance records for five years,” and that “the attendance records specified in the preceding Paragraph shall register the attendance, to the minute, of workers on a daily basis.” These requirements may be appropriate for traditional blue-collar workers, but create managerial difficulties when applied to knowledge-based, white-collar workers. The culture of modern, multinational business provides employees with a large degree of autonomy in their work, including flexibility in working hours and even location, which – together with better compensation and benefits – enhances employer-employee relations. The legal requirement to maintain working-hour records is out of sync with the current trend in multinational businesses of emphasizing employees' self-management. It also increases feelings of distrust between employers and
employees, creates obstacles to attracting and developing talent, and as a result discourages foreign investment in Taiwan. The requirement is contrary to Taiwan’s goal of becoming an increasingly knowledge-based economy that relies on innovation as the core of its international competitiveness.

The Ministry of Labor (MOL) has promulgated “Guidelines for the Calculation of Working Hours for Field Workers,” which apply only to journalists, workers in electronic communication industries, salespersons, and professional drivers. These Guidelines do not come up with a fair standard that could be broadly applied. Therefore, the Committee suggests replacing the rigid requirement of keeping sign-in books or time cards with a system allowing employers and employees to determine “agreed-upon working hours.” As a start, the aforesaid Guidelines should be amended to apply to more categories of field workers and those who are working from home. At a later stage, that flexibility could be extended to knowledge-based workers in general.

1.4 Maintain Article 84-1 of the LSL. Article 84-1 of the LSL specifies that, with the approval of the local labor authority, workers performing special functions in designated industries may have more flexibility in their working hours. The Article states that “After the approval and public announcement of the central competent authority (i.e. the MOL), the following types of employees may arrange their own working hours, regular days off, national holidays and female workers’ night work through other agreements with their employers:

i. Supervisory, managerial personnel or authorized specialists.

ii. Monitoring or intermittent jobs.

iii. Other types of jobs of a special nature.”

In proposing to fully implement statutory work-hour provisions (i.e. the five-day workweek and reduction of working hours to 40 hours per week), some labor rights advocates are also asking for abolition of Article 84-1 to eliminate a possible loophole through which non-compliant employers may abuse this arrangement. The Committee believes it is important to recognize that there are indeed special functions in certain industries for which it is necessary to arrange working hours more flexibly. This is particularly true in the case of managerial and supervisory personnel. Thus Article 84-1 should not be eliminated simply out of concern that certain employers will not be law-abiding. Rather, more responsibility should be imposed on the authorities-in-charge to monitor compliance to prevent evasion or violation of the law.

1.5 Calculate average salary over a 12-month period. For the purpose of calculating overtime payments, as well as severance and pension benefits, “average salary” is defined as the total salary over the six months preceding the date of the calculation, divided by the total number of calendar days for that period. “Salary” is defined in Article 2 of the LSL as compensation that an employee receives for work for which payment is made regularly, and does not include bonuses or commission.

In practice, performance bonuses or commissions will be considered an employee’s “salary” if such payments are made regularly. However, the determination of “salary” should be made in accordance with the nature of such payments. For example, even though insurance sales personnel receive performance bonuses or commissions periodically, such payments are in essence a service fee received directly from the clients and not from the employer. Said payments should therefore not be considered “salary” and should not be included in the calculation of overtime payments, severance, and pension benefits.

A salary calculation that uses an average of the last six months’ compensation disadvantages companies with distinct seasonality or with significant bonus payments at Chinese New Year. It will inflate pension or severance payments if employees retire or are terminated soon after the peak earnings period. Instead, the salary calculation for severance payment and pensions should be based on an average of the prior 12 months’ earnings so as to more accurately reflect actual conditions.

1.6 Revise the penalties for work rules violations. Article 70 of the LSL and Article 38 of the Enforcement Rules of the LSL (EROLSL) stipulate that employers who hire 30 or more workers must establish work rules. The work rules must be reported to the applicable local labor authority and must be displayed publicly in a place where all workers can see them. Employers failing to comply with the work rules requirement will be subject to administrative penalties in the amount of NT$20,000 to NT$300,000. Article 80-1 of the LSL further prescribes that the competent labor authority shall make public the name of any violating company and the responsible person of the company, as well as order the violator to make improvements within a specified period. If improvements are not made within the specified period, violators will be punished consecutively for each violation after the said period expires.

The consequences of violating the work rules requirement are severe, and instead of providing a reasonable period of time for the violators to rectify the situation, the LSL imposes immediate penalties. Making public the names of the violators (both the company and the responsible person) will undoubtedly significantly damage their reputations.

The Committee believes the consequences of violating the work rules requirement should be amended to encourage
compliance and not merely impose punishment. If the violators fail to comply after first being given a certain period of time to make improvements, penalties could then be imposed. Publicizing the violators’ names should be the last resort.

**Suggestion 2: Improve consistency in applying labor inspection standards.**

In the past two years, the labor authorities have conducted labor inspections on a large scale based on Article 72 of the LSL, Article 21 of the EROLSL, and other relevant regulations. In the course of undergoing the labor inspections, enterprises have noticed that labor inspectors tend to apply inconsistent standards to different industries and different workplaces, leaving companies unclear as to what standards they should follow. This lack of clarity could result in increased numbers of administrative appeals and litigations, wasting the nation's administrative and judicial resources.

This Committee suggests that MOL review the current labor legislation, which was written from the perspective of a traditional labor-intensive economy, and use the labor laws of major developed countries as reference in enacting amendments regarding employers’ obligations to maintain working-hours records as well as the adoption of a flexible working-hours policy (see Suggestion 1). Through these changes, the LSL can accomplish its goal of strengthening employer-employee relations and promoting social and economic development. Before the laws are amended, the MOL should assist local labor authorities to provide sufficient training of inspectors to help them follow consistent inspection standards.

**Suggestion 3: Revise the proposed draft of the Protection of Dispatch Workers Act.**

3.1 Gradually phase in the 3% workforce ceiling. In response to an increasing number of labor dispatch disputes, the MOL in February 2014 released the draft Protection of Dispatch Workers Act, which has not yet been approved by the Executive Yuan. One of the key points in the draft is a cap on the engagement of dispatch workers at 3% of a company’s total workforce. Such a 3% ceiling would have an enormous adverse impact on industries, especially in the manufacturing sector, which employs the largest number of dispatched workers.

To mitigate the potential impact, one possible solution would be to gradually phase in the implementation over a period of time. It could be stipulated, for example, that within three years of implementation of the law, the number of dispatched workers may not exceed 10% of total workforce of the enterprises requesting labor dispatch, with the proportion reduced five years after implementation to 5%, and further decreased 10 years after implementation to 3%. At the same time, we recognize that some industry sectors continue to object even to setting a 3% cap as an ultimate goal, and we hope that the authorities will further research actual industry conditions and needs before making a final determination.

3.2 Strengthen the regulations on dispatching institutions. In an effort to protect the rights and interests of dispatched workers, the draft imposes various requirements on the company requesting the labor. In practice, however, most requesting companies diligently follow the rules and provide a safe, sound working environment and conditions for both regular employees and dispatched workers. More often, it is the dispatching institutions, which are the legal employers of the dispatched employees, that contravene the rights and interests of the dispatched employees through various methods, such as failing to execute non-fixed term employment agreements with the dispatched workers, failing to provide them with statutorily required employee benefits and insurance, etc.

The Committee suggests that the government require dispatching institutions to be registered with the local labor authorities and also set basic qualifications for participation in the dispatch service industry (for instance, that the applicant has a good performance record, provides comprehensive employee training, and implements a business plan). To help prevent non-compliance, dispatch service companies should also be required to report regularly to the competent authority. Otherwise, law-abiding dispatch service companies will be at a disadvantage competing with those doing business in a gray area or illegally.

3.3 Loosen the restriction on using fixed-term contracts for short-term dispatched workers and stipulate the permissible causes for terminating employment contracts with long-term dispatched workers.

Enterprises tend to engage dispatched workers to make use of their work force more flexible. Unlike the outsourcing of functions such as security, cleaning, and other services, where the service provider is engaged in one particular type of work, dispatching companies send personnel to the requesting companies to do different kinds of work as required. An individual dispatched worker cannot be suitable for all kinds of work, and the dispatching companies cannot guarantee that it will constantly be able to provide the same kind of work or offer a constant wage. The Committee thus suggests that dispatched workers be separated into two categories: the “registered type” (usually short-term) and the “long-term type.” For the registered type, we recommend that dispatching companies be allowed to offer a fixed-term contract in the same way as other enterprises (see Suggestion 4 below).

The employment contract for the long-term type of dispatched workers is permanent by nature. When the
dispatch service agreement expires or if no suitable work can be provided to the dispatched workers, the dispatching company should be allowed to terminate the employment contract with severance payment. In such a scenario, however, the currently available grounds for termination under the LSL cannot be applied, which gives rise to labor disputes. Due to the unique nature of the relationship between the dispatching company and the dispatched workers, the Committee suggests that the law clearly stipulate the permissible causes for terminating employment contracts with long-term dispatched workers (for example, when the dispatch service agreement expires and no suitable work can be provided to the dispatched worker), so as to protect the interests of both employers and employees.

Suggestion 4: Loosen regulations on fixed-term employment contracts.

4.1 Permit employers to use fixed-term contracts to meet temporary needs for additional human resources. Fixed-term contracts and labor dispatch are popular practices in Taiwan because the current LSL imposes excessive constraints on employers regarding termination of employment, thus depriving employers of the HR management flexibility needed to survive in today’s highly competitive markets. The Committee considers that the use of labor dispatch and fixed-term contracts work hand-in-hand. The member firms that the Committee represents report that the use of labor dispatch is sometimes driven by the stringent and inflexible requirement of fixed-term contracts under the current LSL. We therefore suggest that if the use of labor dispatch is tightened under the new law, then regulations on fixed-term contracts should be relaxed. In particular, the current law requires fixed-term contracts to fit into one of four categories stipulated in the LSL. Instead, the Committee suggests that an employer should be able to use fixed-term contracts as long as it has a temporary need for additional human resources.

4.2 Adopt more flexible standards for reviewing fixed-term contracts for specific work. As mentioned above, under the current LSL defines four categories of fixed-term contracts: temporary, short-term, seasonal, and fixed-term contracts for specific work. A fixed-term contract for specific work requires that the nature of the work be non-continuous, with the duration of work not exceeding one year (unless the labor authority grants approval for a longer period). Due to the diversity of business needs, enterprises may require personnel to perform specific fixed-term work for more than one year, but such fixed-term contracts are often disapproved because of the rigid standards applied. An example was a proposed contract with a high-ranking manager to undertake certain tasks to reach a short-term goal. High-ranking management is not ordinarily considered fixed-term work, but in this case the task to be performed was non-continuous. The application for this fixed-term contract was rejected. Another example was a Taiwanese citizen employed by a foreign parent company who was assigned back to Taiwan to work on a technology-transfer project for more than one year. Again, the nature of this position is not normally fixed-term, but the technology-transfer project is non-continuous work, which requires a fixed-term contract. The application by a member firm of this Committee was also rejected.

In practice, more flexible standards for reviewing a fixed-term contract for specific work are needed to accommodate different situations in response to the fast-changing business environment. An adjustment to address the need for talent to perform non-continuous work to fulfill specific tasks to achieve a short-term goal will increase employers’ hiring flexibility and the strategic deployment of human resources.

Suggestion 5: Create more incentives to attract foreign talent and keep domestic talent.

5.1 Provide incentives for enterprises to offer more competitive compensation to attract talent. Limited by the overall market size and salary level in Taiwan, enterprises here are often unable to offer internationally competitive compensation. Besides the lack of inducements for foreign professionals to work in Taiwan, a related problem is that many domestic professionals are lured to foreign countries by high compensation. The Committee suggests that, in addition to loosening the work experience requirements for foreign professionals and simplifying the procedures for applying for a visa, the government provide enterprises with certain favorable tax treatment or other measures to encourage them to hire domestic or foreign professionals with an internationally competitive compensation.

5.2 Amend the provision of “in serious violation of applicable laws and regulations” as a cause to annul the work permit. Article 73 of the Employment Service Act (ESA) deals with circumstances under which a foreign worker’s employment permit shall be annulled. Item 6 states that “Other than the above, the employed foreign worker has been in serious violation of applicable laws and regulations in the Republic of China.” This provision is too general and ambiguous, leading to unnecessary deportations of foreign professionals, interrupting their service in Taiwan. In one case cited by a member firm of this Committee, a foreign professional who had been working in Taiwan for six years with no misconduct, was
injured when he fell while riding a motorcycle under the influence of alcohol. Although no one else was hurt, a criminal suit for drunk driving was brought against him. The employee expressed deep remorse for his negligence, willingly appeared in court, and paid a fine of NT$100,000. In the end, the court gave him a two-year suspended sentence. However, his work permit was immediately annulled after the court decision, he was then forced to leave Taiwan within a set period of time, and re-entry into Taiwan was banned for three years. The member firm tried to file an administrative appeal, but in vain. In this case, and many others, the penalty seems out of proportion to the offense, and creates an atmosphere that may dampen foreign professionals’ willingness to come to Taiwan to work.

To prevent unnecessary deportations of foreign professionals, the Committee suggests that Item 6, Article 73 of the ESA be amended to conform to the standard set forth in Item 3, Paragraph 1, Article 12 of the LSL, which is: “Where a worker has been sentenced to temporary imprisonment in a final and conclusive judgment, and is not granted a suspended sentence or permitted to commute the sentence to payment of a fine.”

**Suggestion 6: Specify the enforcement details for post-employment non-competition covenants in the EROLSL.**

The newly amended Article 9-1 of the LSL sets four requirements for post-employment non-competition covenants. On February 4, 2016, the MOL accordingly announced draft amendments to Articles 7-1, 7-2, and 7-3 of the EROLSL. However, neither Article 9-1 of the LSL nor the Amendments elaborate on how the new rules apply to post-employment non-competition covenants executed prior to the enactment of the new law.

Further, regarding the “reasonable compensation” requirement under Subsection 4, Paragraph 1, Article 9-1 of the LSL, Article 7-3 of the Amendments provides that determination of the reasonableness of compensation should take into account such factors as “whether the amount of monthly compensation is at least 50% of the employee’s average monthly salary at the time of termination” and “whether the amount of compensation is sufficient to maintain the employee’s living needs during the term of post-employment non-competition.” However, the employees who would be subject to post-employment non-competition covenants are usually higher-ranking personnel with salaries well above average. Some may have a monthly salary of hundreds of thousands of New Taiwan dollars. If employers are required to pay monthly compensation at 50% of the average monthly salary at the time of termination, it would impose a heavy burden on employers.

The Committee suggests that the MOL specify in the Amendments that Article 9-1 of the LSL does not apply retroactively, and also to specify that the above-mentioned two factors in determining the reasonableness of compensation are two alternative options. To alleviate difficulties in applying the new law, the section should be reworded to define reasonableness as: “whether the amount of monthly compensation is at least 50% of the employee’s average monthly salary at the time of termination, or is sufficient to maintain the employee’s living needs during the term of post-employment non-competition.”

**INFRASTRUCTURE**

The Committee’s main focus this year regarding energy continues to be the adequacy, reliability, and cost of the electrical power supply. There is also concern as to whether Taiwan can meet its commitment to reduce carbon emissions by 20% by 2030 and 50% by 2050 compared to the emission level of 2005. In addition, we suggest that the government aggressively address Taiwan’s energy capacity issues by adopting new Demand Side Management technologies and providing greater government support for offshore wind-farm development.

Regarding government procurement, since the opening of the Taiwan market seven years ago to the Government Procurement Agreement (GPA) signatory countries, the results have not been impressive. Our members urge the government to take steps to attract more foreign companies to participate in the government procurement market. Some key measures toward that goal would be to amend the current terms and conditions for tendering public projects, as well as the unfair provisions in Taiwan’s Government Procurement Law as discussed in Suggestion 5.

**Suggestion 1: Ensure that Taiwan’s power supply continues to be sufficient, reliable, and competitively priced.**

Being assured of an adequate and reliable power supply at competitive cost is a basic requirement for high-tech manufacturers’ operations, and therefore for the economic well-being of Taiwan as a whole. A fraction of a second of power interruption or voltage fluctuation can result in lost production and severe damage to valuable assets, and competitive energy costs are extremely important to the profitability of industrial users. We therefore encourage the government and the Taiwan Power Co. (Taipower) to continue to focus on the three key factors of adequacy, reliability, and cost.

With the mothballing of Nuclear Unit No. 4 and with the other three units slated to be decommissioned by 2025, concerns about power-supply adequacy and reliability have increased. Considering that 17% of the country’s power...
output is currently generated by nuclear plants, it is vital to set a long-term energy policy that maintains robust supply and competitive tariffs into the future, despite the decreased dependence on nuclear sources.

Our suggestions:

a. Set a clear direction and policy to mitigate the concerns of large industrial power users. It is likely to be extremely expensive to replace nuclear power with other sources, particularly if the replacement is done too quickly, without time to enable lower-cost resources to be developed efficiently.

b. Identify the specific root causes of power interruptions and take proper corrective actions to minimize the risks. Taipower should continue to meet with their large industrial customers on a periodic basis to discuss mid-to-long term power supply and demand opportunities and challenges.

c. Conduct a detailed analytical survey of the requirements for a stable electricity supply by large users in the strategic high-tech manufacturing sector. These companies should be given the highest priority for non-disruptive service because they make a crucial contribution to employment and GDP growth in Taiwan. Their heavy investment signals a long-term commitment to Taiwan and promotes more long-term, efficient planning by Taipower. In addition, the Ministry of Economic Affairs (MOEA) and Taipower should greatly increase efforts to promote energy conservation and support for Demand Response (DR) programs (see Suggestion 3.1 below). In our view, DR is the only program that can be developed quickly, helped by increased financial incentives, to assist in maintaining reliable supply across Taiwan. Additional programs to consider as part of a detailed plan include economic grants, energy audits and reviews with large customers, etc.

d. Maintain a robust cost-competitive position with respect to energy supply among Asian countries to support stronger economic growth. Large industrial customers in Taiwan compete in a global marketplace, and the price of power has a significant impact on their bottom-line profitability. These large users need more clarity on the details, methodology, and process by which power tariff adjustments are made in order to prepare for future changes and avoid adverse surprises affecting their budgeting and planning. In particular, the cost associated with the construction and potential decommissioning of nuclear unit 4 merits careful attention. These costs should not be recovered from power users, as the unit will never have generated any electricity or served a useful purpose. The most efficient way forward would be for Taiwan to cover any such “stranded costs” by allocating a separate budget to absorb them. If the costs were to be included on Taipower’s balance sheet it would likely bankrupt the company and cause electricity bills to soar.

e. Provide sufficient and reliable gas supply for power generation and to support other industrial usage. MOEA and the national oil company, the CPC Corp., should ensure timely construction of the proposed No. 3 LNG receiving station. Over the next several years, CPC must also ensure that its gas purchases are prudently priced, given the rapidly changing international gas market. As the sole importer of Taiwan’s LNG, CPC should provide more transparency about how it balances spot and term LNG purchases.

Suggestion 2: Set a realistic energy plan that considers both energy demand and carbon-emission reduction goals.

Last December, the Taiwan joined other members of the international community in announcing Intended Nationally Determined Contributions (INDC) for reductions in carbon emissions. Taiwan committed to cutting the level of carbon emissions by 20% by 2030 and 50% by 2050, compared to a base line of 2005 emissions. The path to meeting that commitment remains unclear.

More than half of Taiwan’s carbon emissions come from power generation. There are three types of power plants: fossil fuel (basically coal or gas), nuclear, and renewable. Fossil-fuel power plants produce carbon emissions, while nuclear and renewable power facilities are carbon-free. Currently 78% of Taiwan’s power demand is met by fossil-fuel plants, 17% by nuclear, and 5% by renewable sources. To meet the INDC commitment, Taiwan would have to greatly reduce its reliance on fossil fuels and greatly increase its capacity for power generation from other energy sources.

However, the government’s adoption of a “Nuclear Free Homeland” policy would seem to rule out any increase in the use of nuclear power, which currently contributes 40 billion kWh of electrical energy annually. Besides mothballing the uncompleted fourth nuclear power plant, the government’s intention is to retire the existing three nuclear plants by 2025. That raises the question of whether it is possible to generate an additional 40 billion kWh of energy from renewable energy sources. But even if that can be done, it would merely keep carbon emissions at the current level rather than achieving the proposed 20% reduction.

Two major technical issues confront renewable power development in Taiwan. First, Taiwan’s power grid is isolated, not interconnected with those of any neighboring countries. As the availability of both wind and solar power varies with weather conditions and time of day, the proportion of wind and solar power in the total installed capacity must be kept limited in order to ensure the stability of the power grid. The second issue is capacity factor – how much power is actually
generated over a period of time compared to the maximum designed output. The capacity factor for fossil and nuclear power can be higher than 80%, but it is just 15% for solar and 30% for wind power. Due to these technical constraints, it is questionable whether renewable energy could fill the 40 billion kWh gap that would be created if all nuclear power plants are retired.

Another factor to be considered is growth in power demand. Even if only very modest (<2%) annual power growth occurs, the increased demand by 2030 will come to more than 60 billion kWh. If most of this demand must be met by fossil power, fulfilling the INDC commitment becomes even more problematic. Even with life extensions of the existing nuclear power plants and operation of the fourth plant, Taiwan would still fall short of its carbon reduction goals.

INDC commitments cannot be taken lightly. Neither can the government’s responsibility to ensure an adequate energy supply. We urge the government to come up with a realistic energy plan that gives proper consideration to both carbon-reduction goals and national energy demand.

**Suggestion 3: Adopt new Demand Side Management technologies and provide greater support for offshore wind farm development.**

Given the new administration’s goal of achieving a nuclear-free Taiwan by 2025, the challenge of guaranteeing a stable and reliable energy supply becomes even more urgent. Without nuclear power, Taiwan’s reserve margin will likely drop to about 5%, much lower than the internationally recognized safe margin of 15%. Thus, major energy-policy measures need to be urgently adopted to safeguard the Taiwan economy as it transitions away from nuclear energy.

The Committee recognizes that the new administration intends to manage peak-hour demand, enhance the efficiency of electricity distribution, and amend the Electricity Act to encourage the development of renewable energy. We respect the government’s determination and offer the following specific recommendations:

**3.1 Embrace new trends in Demand Side Management (DSM), including Demand Response (DR) and Energy Efficiency (EE) measures.**

a. **Demand Response is a clean, cost-effective and quick method to reduce peak demand.** Utilities need enough electricity generating capacity to meet peak demand, even though demand only reaches that peak for a limited number of hours per year. Building and maintaining generating capacity is very expensive. Demand Response is a collection of innovative methods that incentivize industrial and commercial users to shift some of their energy consumption to non-peak hours. For utilities, lowered peaks reduce the need for additional investment on capacity.

Demand Response has proven successful in the United States, Europe, Australia, South Korea, and other countries, in part due to the introduction of Demand Response Aggregation. DR Aggregators organize groups of industrial and commercial users that collectively commit to reduce their peak-hour demand by a negotiated amount. The utility benefits from reduced peak-hour demand. Users benefit from reduced energy costs and the ability to monitor their energy consumption more closely. The aggregator realizes a profit for success and pays a penalty for failure. The Committee understands that MOEA and its Bureau of Energy (BOE), as well as Taipower and certain Taiwan energy think tanks, have been exploring ways to adopt various DR measures. To deploy DR more quickly and efficiently, we recommend that Taiwan introduce DR Aggregation and establish an attractive compensation formula that encourages participation in DR programs.

b. **Evaluate current Energy Efficiency programs for residential users, build consumer awareness, and foster changes in consumer behavior.** Energy conservation in the residential sector is usually quite challenging because of difficulties in measuring results and achieving significant improvements. Although Taipower has introduced various EE programs to encourage residential energy conservation, these programs have not yet been shown to be effective. We recommend that MOEA and the BOE conduct a comprehensive review of all EE programs to evaluate their effectiveness. We also urge the MOEA and BOE to consider the more innovative approaches developed in recent years in the United States, Europe, Australia, and certain Asian countries.

3.2 **Streamline the application process for offshore wind farm development.** The Taiwan Strait is recognized as one of the best locations anywhere for offshore wind farms. In 2015, the BOE announced guidelines for offshore wind farm development and designated 36 potential development sites. Experienced international wind farm developers have expressed enthusiasm to help develop these sites. Upon reviewing the guidelines, however, many concluded that the application process requires too many approvals from different levels of government and other parties with different goals and different levels of expertise and experience. In short, they regarded the process as too lengthy, complex, political, and unpredictable.

The new administration has vowed to prioritize the development of renewable energy, including offshore wind farms. The Committee supports that goal and urges the new administration to review and streamline the current development application process in order
to encourage top international developers to contribute their expertise and experience to this new sector of Taiwan's economy.

Streamlining the application process would also encourage local banks to finance the development of offshore wind farms. As long as the process remains unpredictable, banks will be less likely to finance wind farms, further reducing interest and participation by the most experienced developers.

**Suggestion 4: Attract more foreign companies to participate in the government procurement market.**

Starting seven years ago with Taiwan's accession to the Government Procurement Agreement (GPA) under the WTO, Taiwan has opened its government procurement market to GPA countries. But so far the results have not been impressive. Two major factors appear to account for that development. First is the diminished interest on the part of foreign companies due to non-technical market barriers, and second is the perception that the procurement system is not very welcoming toward foreign companies' participation.

For reasons that include ease of communication, lower contract prices, and less responsibility in what is sometimes a sensitive political environment, state-owned enterprises have tended to favor local suppliers of equipment and services in the tendering process. In addition, many of the terms and conditions adopted in standard government contracts differ from what prospective foreign bidders regard as fair and internationally accepted conditions. The result is that most first-tier international companies are reluctant to participate in Taiwan's tenders, depriving the government procurement process of the chance to do things better and more efficiently. Besides damaging the international image of the Taiwan procurement market as a whole, the situation prevents Taiwan from raising the quality level of many products and services by adopting the latest worldwide technical developments.

We suggest amending the terms and conditions on public tenders to make them more acceptable to world-class engineering and equipment-supply companies. We also continue to recommend further broadening of the scope of Taiwan's GPA participation by adding the special municipalities created since Taiwan signed the Agreement – New Taipei City, Taichung, Tainan, and Taoyuan – as well as more central government agencies.

Following these suggestions would give the new administration a chance to create a more open government procurement environment in the interest of broader international contacts and encouraging the entry of new technologies.

**Suggestion 5: Remove unreasonable provisions in the Government Procurement Law.**

Articles 88, 89, 101, and 103 in Taiwan's Government Procurement Law impose particularly harsh penalties on employees of engineering consultant firms working on public construction projects – including those involved in planning, design, procurement, review, project management, and construction supervision services – if the employee has engaged in misconduct for personal benefit while on the project. The punishment is imprisonment for a period of one to seven years and/or a fine of NT$1-3 million.

We are particularly concerned with an additional aspect of such cases – the stipulation that the employer of such wrongdoers will be prohibited from participating in bidding on or being a subcontractor for public projects for up to three years. In reality, no employer can control the personal behavior of individual employees. But under the Taiwan law, misconduct by a single employee could cause a whole company with hundreds or even thousands of personnel to be severely penalized.

In some cases, the employee is found guilty by a lower court and the prohibition on the company's participation in government projects is publicly announced. But afterward, following a long legal process, the employee may be deemed not guilty by an appellate court. Although the prohibition should be lifted at that point, the damage to the company's business income and reputation is already done and no recourse is available for any remedy. Incredibly, government agencies have sometimes announced the prohibition based solely on the prosecutor's indictment, without any verdict having been reached in court.

This kind of regulation is not found in any other country. It is especially inappropriate when considering this country's need for professional engineers to help promote economic development in general and public construction in particular. We strongly recommend abolishing the relevant portions of the Government Procurement Law to remove an unreasonable regulation facing the consultant engineering industry.

**INSURANCE**

Considering the growing global trend towards greater transparency and improved communication among stakeholders in nearly every industry, the Insurance Committee has aligned this year's White Paper position paper with those ideals. Taiwan is in a tremendous position to make significant strides in these areas and firmly establish itself as a regional or even global leader. Doing so would provide a more stable and consumer-oriented market in Taiwan, enabling all involved to thrive.

The Committee would also like to express its thanks to all of the ministries and bureaus that are not only working so diligently to improve the market in Taiwan, but have also
shown a true willingness to listen to the industry’s views and consider our concerns. We very much look forward to working with the government to realize the suggestions being put forth in this year’s White Paper.

**Suggestion 1: Review the regulatory policy governing insurance broking.**

1.1 Continue to allow insurance and reinsurance broking to operate concurrently under the same insurance contract.

We strongly suggest reconsideration of the proposed amendment to Subparagraph 2 of Paragraph 1, Article 3 of the “Regulations Governing Insurance Enterprises Engaging in Operating Reinsurance and Other Risk-Spreading Mechanisms,” announced on March 9, 2016 with the objective of eliminating possible conflicts of interest. The proposed amendment would prohibit a broker company from concurrently transacting both insurance broking and reinsurance broking businesses under the same insurance contract. Imposing such a restriction was discussed when the Insurance Brokers Regulations were being amended in June 2014, but the proposal was eventually withdrawn on the grounds that it would be contradictory to international insurance practices.

The practice of concurrent operations of insurance and reinsurance broking businesses is a natural development driven by market demand as multinational companies – or companies potentially exposed to large, complex risks – require a single broker company with relevant expertise to meet their insurance and reinsurance needs. To avoid possible conflicts of interest, the current regulatory system in Taiwan, in line with the practice in many major insurance markets, such as in the United Kingdom, Australia, Hong Kong and Singapore, requires the proper segregation of the work in the insurance and reinsurance broking businesses. Furthermore, as long as the broker has duly disclosed any potential conflicts of interest and has obtained the consent of all relevant parties, there is no compelling reason to totally prohibit concurrent operations of insurance and reinsurance businesses.

In order to ensure Taiwanese companies’ continuing access to efficient broking services – keeping costs down and maintaining international competitiveness – we therefore suggest that consideration of the amendment be postponed. In the meantime, discussions could be held between the authorities and the insurance broker companies to establish a reasonable and feasible plan that would simultaneously address any concerns about conflicts of interest and ensure that customer needs are met.

1.2 Allow insurance broker companies to conduct reinsurance business and provide services in China.

In light of the frequent business interaction between Taiwan and China, many Taiwan-based enterprises need risk consultancy services when doing business on the mainland. Unfortunately, under the current “Regulations Governing Permission of Insurance Business Transactions and Investment between the Taiwan Area and the Mainland Area,” only companies defined as “insurance enterprises” are allowed to engage in certain lines of business – such as reinsurance, assistance in insurance claim services, loss-control consulting services, and other insurance-related businesses approved by the competent authority – with Chinese insurance enterprises. The definition of “insurance enterprises” does not include insurance broker companies, thereby restricting them from providing services to their Taiwan-based clients doing business in China. This restriction ignores the practical needs of Taiwan enterprises.

The current market situation is that many Lloyd’s syndicate members have set up their North Asia offices in China, rather than in Hong Kong or elsewhere, and only such syndicates in China (not London or Singapore) may underwrite Taiwan reinsurance business. It is therefore inevitable for Taiwan insurance broker companies to receive requests to conduct reinsurance business in China. Further, it is common market practice that when a global policy is issued to Taiwan-based enterprises in Taiwan, the insured – which likely include the enterprises’ China subsidiaries and affiliates – will require insurance broker companies to provide services when the China subsidiaries and affiliates claim reimbursement.

The current restriction not only prevents insurance broker companies from performing their obligations under the brokerage contract (since providing services in China is a derivative part of the contract), but also seriously undermines the rights and interests of the Taiwan-based enterprises. To accommodate the needs of Taiwan-based enterprises and the market as a whole, it is imperative to open the door for insurance broker companies to provide reinsurance, insurance claim, and loss-control consulting services in China with the approval of the competent authority, as permitted for insurance enterprises.

**Suggestion 2: Continue to increase the convenience for consumers to obtain protection insurance.**

The Committee recognizes and appreciates the steps that have been undertaken to improve consumers’ access to protection products. We continue to encourage the regulatory authorities to take even bolder steps that would further enable citizens to obtain proper coverage in a transparent manner by leveraging innovative products and technology.

2.1 Enhance the ease of use of digital means to obtain insurance. Taiwan continues to lag behind other jurisdictions in enabling insurance transactions via electronic means. Referencing major markets around the
Lastly, as digital and telephonic means to acquire insurance are becoming increasingly popular with consumers, electronic recordings of clients’ responses for underwriting purposes should be accepted as a legal basis to challenge or rescind a policy. Elimination of this option creates heightened risk for the insurance industry as a whole and limits product availability for consumers. We request that Article 9(3) of the “Directions for Insurance Enterprises Engaging in Telemarketing Insurance Products” be revised to permit the legal acceptance of electronic recordings for the above-mentioned purposes. The change would bring Taiwan in line with international practices in this regard and help to further promote digital insurance.

2.1 Remove the disparity between life and non-life insurers in offering travel inconvenience insurance. Article 138 of the Insurance Act allows non-life companies to issue three-year term accident and medical products. But it does not permit life insurers to issue travel insurance products. This disparity gives non-life companies an advantage in offering robust travel insurance products and creates an un-level playing field. In line with international practice, we recommend amending Article 138 to allow traditionally non-life features of travel insurance products (such as travel inconvenience protection) to be issued by life insurance companies.

Suggestion 3: Alleviate the undue financial pressure stemming from unintended consequences of increasing the business tax rate for insurance companies.

The more than doubling of the business tax rate on financial institutions in 2014 has placed financial pressure on foreign life insurers in a disproportionate manner compared to the industry as a whole. In its current form, the business tax formula actually penalizes the sale of protection/risk-based products, the tax is positioned in a value-added structure and is explicit rather than being embedded within the insurance premium. We recommend changing the tax structure to the industry as a whole. In its current form, the business tax formula actually penalizes the sale of protection/risk-based products, the tax is positioned in a value-added structure and is explicit rather than being embedded within the insurance premium. We recommend changing the tax structure to the value-added structure and explicitly itemizing the tax, distinct from the premium, as is done in other jurisdictions in the interest of transparency to the consumer.

The Committee recognizes that amending the law to make this type of change is a complex process. However, other actions can be taken in the near term to improve the situation:

1. Reclassify the tax items of “core business” and “exclusive core business,” moving protection products to the

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“exclusive core business” category and applying a 2% tax rate.

2. Follow the fundamental international principles of non-retroactive taxation, reasonable reliance, and non-differential treatment within an industry by allowing policies written prior to the tax increase to continue to be taxed at the rate in force at the time the contract was written.

3. Mitigate the impact of tax increase to the foreign life insurers by:
   a) Allowing life insurers to deduct retained claim payments as part of the tax formula, as is already the case for non-life insurers.
   b) Exempting protection and health products from the business tax.

**Suggestion 4: Encourage the adoption of protection and retirement insurance products in view of the aging of the society.**

4.1 Open up investment choices for employee voluntary pension contributions. The National Development Council (NDC) predicts that Taiwan will become an “aged” society by 2018 and a “hyper-aged” society – 20% of the population aged 65 or older – by 2025. In addition, the working-age population – those between 15 and 64 years old – is set to gradually decrease beginning in 2016. At present, every 100 working-age people support a dependent population (children and the elderly) of around 35 people. With the rapid growth of an aging population, this figure will balloon to 99 people by 2060. Longer life expectancy does not necessarily equal the extension of a carefree life. The elderly encounter more health issues, and thus the expenditures on medical insurance and healthcare are expected to increase in the future. In response to the challenges posed by an aging society and a shrinking labor force, the Committee recommends that the government encourage broader protection coverage for the public by reforming the national pension plans and increasing the amount of tax exemption given to premiums on protection-insurance products.

The national pension schemes are managed by the Labor Pension Fund Supervisory Committee or its designated institutions. In recent years, the Ministry of Labor (MOL) and FSC have favored the idea of permitting self-investment pension accounts on an optional basis. The Committee supports this policy, as it makes sense for employees – particularly younger ones with a long investment horizon – to be free to diversify their pension savings by opting for investments with potentially higher returns. In a number of advanced markets, including Hong Kong, Singapore, the United States, and the European Union, the pension schemes allow employees to place some of their pension in non-guaranteed investment options with a risk-return profile that matches their needs. We join the Asset Management Committee in strongly suggesting that the MOL and FSC allow the “voluntary” portion of employees’ pension contributions to be allocated to various investment options other than those with the mandated minimum guaranteed returns according to the two-year deposit rate.

In addition, the tax exemption for insurance products has remained at NTS$24,000 per person for decades. Given the increasing need for healthcare and for medical insurance, the Committee recommends that the tax exemption be increased as an incentive for the public to buy protection insurance products to prepare for their retirement, thereby reducing the impact of unforeseen events and lessening the government’s long-term social security costs and financial burden. Considering the social benefits that protection insurance products could offer, we also advocate the exemption of business tax for the insurers.

4.2 Improve the environment for the introduction of retirement products. To advance the proliferation of diverse retirement products, we suggest that the cap on the reserve exclusion foreign-currency products be removed. Retirement products are aimed at providing a long-term and stable return. Accomplishing that goal requires investment diversification, including foreign investment. In general, foreign-currency retirement products are more beneficial for Taiwan customers than New-Taiwan-Dollar-denominated retirement products, given the better pricing resulting from the higher expected returns from overseas investment markets.

Current regulations, however, impose a ceiling of up to 25% on the exclusion of non-investment linked reserves, including Offshore Insurance Unit (OIU) products, from foreign-investment limitations. This exclusion cap has made it difficult for insurers to achieve steady returns on investment as well as to achieve effective risk mitigation. In effect, the ceiling diminishes an insurer’s capacity to engage in foreign investment when the reserves of foreign currency products reach 25% of the total non-investment-linked life insurance business. In turn, insurance carriers are discouraged from promoting foreign-currency retirement products. As the development of retirement products plays a pivotal role for an aging population, we recommend the exclusion of all reserves of foreign currency non-investment-linked life insurance business, including OIU, from foreign-investment limitations.

**Suggestion 5: Simplify the non-life product filing process to meet commercial market needs.**

Personal lines insurance is normally sold to individuals in a standard format in large quantities, whereas commercial
insurance is sold to legal entities and may be tailor-made as requested by clients to meet changing market needs. Given the large number of foreign-invested and multinational companies in Taiwan, the existing product-filing process is not fluid enough to ensure that the insurance needs of these companies are met on timely basis. The result is that many companies only buy basic coverage such as property and automotive insurance in Taiwan. In addition, many Taiwanese companies have invested overseas and the Taiwan-based parent company may want to arrange a master policy that covers its worldwide operations. In order to increase Taiwan’s competitiveness as the market becomes more globalized, we suggest the following:

a. Apply a simplified product-filing process to non-tariff commercial products and endorsements, treating them differently from personal lines or individual insurance products. This change would help commercial clients meet their needs more expeditiously. It would also help ensure that the risks of commercial clients are well protected or mitigated when they venture into the global market, as well as benefiting investments in Taiwan by new commercial clients.

b. Set up a special product-review mechanism to approve long-duration non-life products in response to commercial market demand. Under the Securities and Exchange Act, by way of example, an investor has up to five years to claim indemnity if any information was wrongly disclosed in the prospectus, leading to the incurrence of loss in the investment decision. But long-duration non-life policies are currently not allowed, even though there is no such restriction under Article 16 of the “Regulation Governing Pre-Sale Procedures for Insurance Products.”

INTELLECTUAL PROPERTY & LICENSING

Intellectual property rights (IPR) protection continues to play a crucial role in maintaining Taiwan’s competitive position in the global economy. It is generally recognized that an IPR-friendly region attracts more investment, fostering a sound economic environment. In Taiwan, the availability of strong IPR protection has contributed enormously to the growth of the knowledge-based industries that are increasingly important to the Taiwan economy.

Over the years, we have been gratified to see various IPR-related efforts promoted by the Taiwan Intellectual Property Office (TIPO). One landmark development was passage of the Trade Secrets Act in 2013, which imposed criminal penalties for violation of the law. Although the environment for protecting trade secrets is now much improved, some difficulties remain. For example, the investigation agencies are often reluctant to pursue a case unless the victim can first present concrete evidence, but that is usually almost impossible in trade-secret misappropriation cases. In the United States, the authorities will generally take action based on “reasonable suspicion,” in expectation that specific details proving guilt or innocence will emerge in the course of the investigation. Other obstacles are the investigators’ lack of experience with cases of trade-secret theft case, and the reluctance of the courts to issue evidence-preservation orders.

In the area of copyright protection, TIPO has also been working relentlessly on amendments to the Copyright Act, demonstrating the importance that the Taiwan government places on copyright protection. A fourth draft of the bill was recently made available for stakeholder comment. Some of the suggestions below provide this Committee’s recommendations regarding the proposed legislation.

TIPO has also been active in helping prepare the way for Taiwan’s expected bid to join the second tranche of the Trans-Pacific Partnership (TPP) trade agreement. It has conducted a public hearing to explain the contents of TPP, and also held meetings to discuss how Taiwan’s Patent Law may need to be adjusted to meet TPP standards. The Committee strongly supports any initiative that will strengthen Taiwan-U.S. cooperation for the benefit of both countries. For example, we would encourage the two sides to enter into a Patent Prosecution Highway (PPH) partnership, as Taiwan has already done with Japan and Korea.

While we are generally highly supportive of the Taiwan government’s efforts on IPR issues in recent years, the Committee is concerned that little movement has taken place on some important matters raised in the 2015 Taiwan White Paper. These issues, many of which date back a number of years, include:

1. Reform of the Copyright Collective Management Organization (CCMO) system.
2. Remaining issues regarding the proposed Copyright Act amendment.
3. Effective measures to deal with online copyright infringement.
4. IP Court willingness to grant evidence-preservation orders and award reasonable damages.
5. Strengthened enforcement of trade secret cases.

Suggestion 1: Remove all unreasonable or discriminatory regulations imposed on Copyright Collective Management Organizations (CCMOs).

Although amendments to the CCMO Act passed in 2010 appeared to give rights-holders the freedom to set their own rates for copyright royalty fees, it also gave content users greater freedom to appeal to the government for a ruling that would revise the fees. The resultant government intervention has led to unstable royalty rates and violates the right of copyright holders, both foreign and local, to conduct their
legal licensing business as they see fit.

Even though both CCMOs and users are dissatisfied with TIPO’s intervention into rate setting, TIPO insists on maintaining the current review system. But if TIPO is unwilling to give up the system, it should at least restrict content-users’ appeals under the following circumstances:

a. When a similar rate had been reviewed and set within the past three years, whether or not any judicial remedy was sought;

b. When there was a previous settlement or ruling regarding the tariff rate at issue and the applicant cannot provide a convincing reason why a new ruling is needed;

c. When TIPO determines one of the follow:
   (1) The grounds for appeal are clearly unreasonable;
   (2) The purpose of the appeal is to disturb normal procedures;
   (3) The applicant has a history of non-compliance with TIPO’s rulings, instructions, and practices.

In addition, we strongly suggest removing provisions in Article 37 of the Copyright Act that unreasonably restrain and discriminate against copyright holders by allowing only CCMO members to seek criminal remedies for copyright violations. The restriction violates the constitutional rights of copyright owners that do not belong to a CCMO, and is particularly unfair to copyright owners for whom no CCMO exists in Taiwan.

**Suggestion 2: Make needed revisions to the Copyright Act.**

2.1 Maintain the penal provisions as set out under the current law, including penalties against optical media piracy. TIPO’s fourth draft Copyright Act amendments released in April 2016 would remove the six-month minimum jail term for optical media piracy. Even though the use of optical disks is less common nowadays, they are still available in the market, sometimes in the form of high-quality counterfeit disks, and other physical media such as hard disks and SD cards are also being sold. For example, more than 50,000 pieces of pirated disks of Jody Chiang’s live concert performances were seized in November 2014, and another 50,000-plus pieces of pirated disks recorded with unlicensed films, music, and software were seized in December 2015. Aside from maintaining the current criminal penalties, we suggest amending the Copyright Act to permit another type of infringement to be treated as a public crime: the piracy of content stored in media with digital-storage functions similar to but having even more capacity than optical disks, such as USB drives, memory cards, etc.

2.2 Remove the proposed exemption for retransmission of content received by use of home-use facilities. Article 67 in TIPO’s third draft permits the retransmission of publicly broadcasted works received by using normal home-reception facilities. The provisions would disregard the three-step test as set out under the WTO’s TRIPS (Trade-Related Aspects of Intellectual Property Rights) agreement, which restricts the right to engage in inappropriate public transmission. A WTO panel confirmed that position in a decision concerning a section of the U.S. Copyright Act that set out a “business exemption” which was similar in effect to the provision now proposed by TIPO.

Aggravating the situation is the vagueness of the term “home-use facilities,” which is not clearly defined in the drafts. With the advancement of technology, it is very difficult to distinguish home-reception facilities from commercial facilities. In fact, many “home-use facilities” can be – and are in practice – used in a commercial context, providing entertainment to large audiences. Also, it is common practice in Taiwan for home-reception equipment to be used in commercial premises to play broadcasted works to the public. As a result, it is clear that this exception would not apply only to “certain special cases” as required under the three-step test. And since there is no way to control the use of “home-use facilities” for commercial purposes or in commercial premises, the exception would also breach other conditions under the three-step test through “conflict with a normal exploitation of the work” and unreasonable prejudice to the “legitimate interests of the author.” As the proposed exemptions would contravene the TRIPS Agreement, we strongly suggest that this provision be removed from the draft in its entirety.

**Suggestion 3: Adopt effective measures to deal with online copyright infringement.**

Over the past several years, governments in Asia have attempted to find solutions to combat the proliferation of overseas websites engaging in online copyright infringement. Such sites profit off the infringement of copyrights on valuable creative content – motion pictures, television programming, music, games, software, and other copyrighted materials – and stifle the legitimate creative marketplace for local and foreign creators alike.

The “notice and takedown” mechanism articulated in the current Internet service provider (ISP) liability provisions of the Copyright Act provide a mechanism for controlling illegal or unauthorized content on hosted websites located within Taiwan. But the current copyright legislation is unable to deal with illegal activities from non-hosted websites and websites offshore. Local ISPs cannot take down infringing materials not hosted on their servers, and offshore websites are outside Taiwan’s jurisdiction.

Pirating activity in Taiwan now typically consists of P2P file-sharing software and media box devices providing links to overseas websites offering access to large quantities of
Unauthorized copyrighted content. But in the absence of legislation authorizing the blocking of sites that provide access to infringing material, there has been no effective solution to the problem.

In 2014, the Court of Justice of the European Union confirmed that providing website blocking injunctive relief to rights-holders is permitted under EU legislation and Article 8(3) of the EU Copyright Directive, irrespective of the ISPs’ involvement in or liability for the infringing act, and does not constitute a violation of basic civil rights. Site-blocking has now become an international trend. More than 40 countries and territories – including the United Kingdom, France, Italy, Germany, Spain, and Australia, as well as Singapore, South Korea, Malaysia, Indonesia, and India in the Asia region – have adopted administrative or judicial measures to stop access to rogue overseas websites known to be engaged in serious copyright infringement.

In May 2013, TIPO considered amending the Copyright Act to authorize site-blocking by means of the administrative approach, but withdrew the draft amendments in the face of protests that blocking blatant copyright-infringing sites might somehow be a curtailment of “freedom of speech” and the “fundamental right to access information.” As the administrative approach appears to be too controversial, we suggest that the Taiwan government follow the above-mentioned international trend for a legislative solution. The Intellectual Property Case Adjudication Act could be amended to create a special and swift judicial remedy for the copyright-holder victims of the dissemination of pirated content from overseas websites.

In addition, recent studies have shown that accessing infringing websites leaves users vulnerable to unintentionally downloading malware or exposure to high-risk advertising. Another recent study conducted in Taiwan found that most of those surveyed recognize that online piracy is equivalent to theft, and feel not enough is being done to deter such activities.

The Committee suggests two new measures to counter online piracy for Taiwan to consider. Both are being implemented in other countries and have proven effective in reducing online piracy rates and thereby fostering the growth of legitimate domestic online content services.

a. Develop a watchlist of illegal pirate sites for the reference of the online advertising industry.

The support of advertisers is a key factor in driving the growth of legitimate creative content. But major brands sometimes also inadvertently provide economic resources to popular pirate sites, simultaneously siphoning funds away from legitimate content creators. The problem is prevalent in many major markets around the world. In the United States and United Kingdom, the creative industries are working with their governments and online advertisers to develop “follow-the-money” strategies aimed at keeping brands out of bad company and revenues away from illegitimate players.

The U.K. approach is led by a dedicated unit of the London Intellectual Property Police. As a first step, officers attempt to contact the illegal site owners, offering them the chance to correct their behavior and begin to operate legitimately. If the illegal site fails to comply, the site is placed on an “Infringing Website List” which is posted by the police unit on an online portal where it is available for reference by all entities involved in the digital advertising market. Based on the list, advertisers, ad agencies, and other intermediaries are likely to decide voluntarily to cease placing advertising on these culpable websites, impacting their business model by disrupting their revenue flow. Although the U.K. system is relatively new, it offers a promising new remedy that is already helping to slow the growth of online piracy and speed the development of legitimate online content services in Britain.

b. Amend the Electronic Communications Act to permit a no-fault remedy for ISPs to disable access to flagrantly infringing websites. Most countries provide a means to disable access to websites to prevent certain types of societal harm – for example, to halt access to child pornography. In an increasing number of Asia Pacific countries, including South Korea and most recently Australia and Singapore, this concept has been extended to access to websites built on copyright infringement. While the implementation in each of these countries has differed slightly, the goal remains the same: ensuring that the Internet is open for legitimate creative businesses, and that the marketplace is not flooded with websites whose business models are built on infringing the rights of creators. Since many infringing sites employ tactics such locating their servers offshore to avoid detection and enforcement, governments have adopted a “no fault” approach whereby ISPs are instructed to disable access to an infringing site but are themselves freed from liability for the site’s violation of copyright. A similar approach has been adopted in Europe. The law of the United Kingdom, which is particularly instructive as to how a simple injunctive relief provision can be employed to effectively reduce online infringement, could provide a model for Taiwan.

Suggestion 4: Strengthen the IP Court’s willingness to grant more evidence-preservation orders and award reasonable damages.

In copyright-infringement cases, the lack of a discovery system in Taiwan puts rights-holders at a distinct disadvantage. As Taiwan’s Intellectual Property Court plays a vital role in IP protection in this country, we encourage
it to increase its willingness to grant evidence-preservation orders. Given their lack of technical knowledge, judges are often reluctant to issue evidence preservation orders because the time-consuming and complicated preservation process would then be their responsibility. But that obstacle could be overcome if the IP Court’s technical experts could be brought into the process of evidence preservation.

In addition, one of the most important ways to protect copyright holders is for the IP Court to award damages that both properly reflect the loss to the copyright holders and are sufficient to deter further infringements. Article 88 of the Copyright Act states that if it is difficult for the injured party to prove actual damages, statutory compensation may be requested at an amount not less than ten thousand and not more than one million New Taiwan Dollars.

For copyright-infringement cases involving software, the damages can be based on the quantity of software or disks that are found, for example by searching a warehouse or seizing a shipment at customs. But the volume is harder to quantify in “hard-disk loading cases,” where the system builders or stores have pre-installed illegal software for customers to help promote the sale of hardware products. During raids, only a limited number of disks or USBs can be seized, yet the storage devices may have been used to install software onto large number of computers over a long period of time. It is therefore unreasonable for damages in such cases to be based on the number of physical disks that are seized.

As a result, software companies usually try to base the amount of damages on the statutory compensation clause. For at least the past five years, however, the courts in Taiwan have declined to apply the statutory compensation clause in hard-disk loading cases, neglecting the difficulty of proving actual damages in such cases. Instead, they have consistently held the view that the damage merely equals the market price of the software in the disks seized during the raid. The IP Court’s reluctance to apply the statutory compensation clause makes that clause totally irrelevant, and it enables system-builder infringers to diminish economic liability by using just a small number of disks. Further, the low awards for damages do not effectively deter future copyright infringements.

The recent draft amendments to the Copyright Act Amendment have removed the requirement that damages have to be difficult to prove in order to apply for statutory compensation. We support this revision, and if it is passed we hope that the IP Court will start to award damages based on statutory compensation. The concern we have over the new amendment is that it does not specify whether the basis for the statutory compensation is per software product or per case. We suggest that the wording be made more explicit on this point to confirm that when a given case involves a number of software products, statutory compensation should be calculated based on each individual software product instead of on each case.

**MEDICAL DEVICES**

Health authorities around the world are facing the challenge of how to manage their regulatory regimes in the face of ever more rapid advancements in medical technology, along with a growing public demand for quality medical care, increasingly voiced through social media. Governments need to ensure that medical devices are effectively regulated for safety and efficacy, and that members of the public are adequately informed about their options as patients.

In Taiwan, the Food and Drug Administration (TFDA), recognizing that medical devices cannot be appropriately regulated under the existing Pharmaceutical Affairs Law, has begun work on drafting separate specific regulations for medical devices. The Committee appreciates TFDA’s efforts in this regard, and looks forward to the completion of the draft regulations. A crucial element in this process must be the harmonization of the proposed regulations with international standards and practices, so that the review process for imported products can be expedited and more reliable post-market management achieved. Below are the Committee’s specific recommendations.

**Suggestion 1: Maximize participation and transparency in the regulatory process.**

In line with the Second Generation National Health Insurance program’s spirit of broad participation and information disclosure, the National Health Insurance Administration (NHIA) has gradually adopted various mechanisms aimed at involving more stakeholders in policy and case discussions. For example, medical-service providers now participate in the drug and medical device reimbursement review process, and patients have an opportunity to express their opinion on new devices during the review process. Medical device suppliers are able to provide feedback to the Special Materials Expert Group for consideration in the reimbursement review process and may attend meetings of the Expert Group to present their case for decisions on appeal. We commend these measures as positive developments. Fuller discussion from more perspectives will contribute to accelerating the introduction of new medical technologies.

As Taiwan gradually aligns with international trends on healthcare policy, such as the implementation of Tw-DRGs (Taiwan Diagnosis Related Groups), medical-device policy discussions are no longer limited to pricing and reimbursement issues, but extend to the application of various new medical-device technologies. Therefore, the industry should not be viewed simply as medical device suppliers, but rather as an important partner to assist in the introduction of new medical technology.

In the interest of promoting maximum participation and transparency in the policy-making process, the Committee...
recommends the following:

1.1 **Involve license holders of medical devices in the review process for new therapeutic procedures and procedure-covered devices.** According to the reimbursement guidelines for medical devices, if there is no existing corresponding therapeutic procedure, the license owner of a newly licensed medical device may apply for NHI reimbursement only after a healthcare organization or medical association has applied for and received new-procedure approval. Self-pay codes for procedure-covered devices as defined by NHIA will be issued after consultation with the Taiwan Hospital Association or medical association regarding the proportion within the procedure to be allocated to the medical device. However, the license holders of new medical devices or procedure-covered devices are not involved in the therapeutic procedures review process. Their lack of information on the progress of the reimbursement process and the schedule for NHIA’s issuance of self-pay codes increases their difficulty in planning product launches and gaining market access.

We recommend that NHIA consider medical device manufacturers as professional medical consultants and request the license holders of medical devices to participate in the process and share their opinions. NHIA should issue letters to healthcare organizations, medical associations, and the license holders of medical devices to inform them about the self-pay measures for therapeutic procedures and medical devices.

To encourage the development of new technology, we also suggest that healthcare organizations be allowed to accept self-payment in the following two situations:

(a) When the review process for a new therapeutic procedure application has been completed, and NHIA has requested additional documentation but has not given its final ruling.

(b) For procedure-covered devices as defined by NHIA, when consultation with the Taiwan Hospital Association or medical association regarding the proportion of the procedure to be allocated to the device has been underway for more than half a year, but a conclusion is still pending.

1.2 **Increase the transparency of the reimbursement review process.** We recommend that NHIA enhance the search function on its website for tracing the progress of application reviews for medical devices and therapeutic procedures in order to help manufacturers with their inventory planning and to assist clinicians and patients in developing appropriate plans for treatment.

1.3 **Recognize fee-for-service special materials under DRGs in a lenient way and announce the principles and review process governing listed special materials.** As a consequence of DRG implementation, members of the public are finding that their access to listed special materials is indirectly being limited. For medical devices with new functions, reimbursement by fee-for-service increasingly needs to be considered because either the quantity to be utilized is uncertain or the technology is not yet mature. In response to the implementation of phase 3 to 5 DRGs, some listed special materials have been made eligible to apply for fee-for-service. In the interest of transparency, we suggest that NHIA make public the assessment principles and process behind that determination for industry’s reference. So as to encourage the listing of new medical devices in the NHI system, we also suggest increasing the proportion of devices eligible for fee-for-service under DRG and broadening the principles applied in determining that eligibility.

**Suggestion 2: Establish a rational system for medical device reimbursement.**

In Taiwan, the reimbursement pricing for medical device is based on functional categories. Devices with the same function are reimbursed at the same price. Variance in manufacturing costs and the length of time the device has been listed in the market are not taken into consideration.

Besides the reimbursement price, pricing is also determined by price-volume agreements, the floating point value, price-volume surveys, and Tw-DRGs. The combination poses a definite challenge to the development of the medical device market, and affects manufacturers’ willingness to introduce new products and technology in Taiwan due to the restrictions on price and volume under the multiple payment schemes.

The Committee would like to express its appreciation to NHIA for adopting various industry recommendations in recent years. These include the introduction of balance billing and self-pay management guidelines; elimination of unreasonable measurements in determining medical device reimbursement, such as reference countries’ GDP; and continuous review of the price-volume survey mechanism. Such steps not only encourage manufacturers to steadily introduce new technology and devices, but gradually improve their willingness to supply products under the reimbursement scheme despite the limited NHI financial resources.

Reasonable pricing principles, a transparent and open review process, a predictable policy and business environment, and an appropriate free-market system are all important factors affecting medical device companies’ decisions on introducing new products to a given market. To help establish a reasonable reimbursement system in Taiwan for medical devices, the committee recommends:

(a) **Permit devices to remain in the self-pay market when the manufacturer does not accept the offered reimbursement price.** With the adoption of Article 52-2 of the NHI Pharmaceutical Benefit Scheme, license holders now have...
one chance to appeal an unsatisfactory price, and if the offered reimbursement price is still unacceptable, the self-pay code may be cancelled, basically freezing them out of the market.

There are numerous reasons why a manufacturer may feel unable to accept an offered reimbursement price. One is that the discount hospitals will request and future price cutting following a Price Volume Survey also have to be considered in deciding whether the price makes business sense. Another example is that sometimes the reimbursement is based on one of the other devices in the same functional group, which may not properly reflect the cost of other products in the group.

NHIA understandably wishes to increase the rate of adoption of reimbursement prices. But simply mandating that acceptance is out of place in a free-market economy. It also impact the entry of new-function devices into the market, to the disadvantage of patients seeking access to more technologically advanced treatments.

(b) Increase the frequency of the NHI committee’s consideration of new balance billing categories to from the current two times a year to four. The balance billing payment program, by sharing the expenditure on a device between NHI and the public, makes more treatment options available for patients without increasing NHI’s financial burden. For devices under balance billing, however, it is not sufficient to simply follow the assessment process and Expert Group review as with other new-function medical devices. Additional appraisal is needed by the NHI committee, which prolongs the waiting period for patients to access balance billing medical devices. Considering that only one or two new balance billing categories are created annually, we suggest increasing the frequency of NHI committee reviews of new balance billing categories to reduce the waiting time.

Suggestion 3: Streamline the medical device review system and make it more transparent and consistent.

3.1 Make products approved by U.S. FDA eligible for simplified review. The U.S. FDA review result serves as a supportive reference for international health authorities. We suggest that TFDA accept U.S. FDA approval as sufficient documentation to waive the requirements for submission of pre-clinical information and documents related to quality control and sterility, including specifications, test methods, test reports, certificates of analysis (CoA), etc. The result will be to speed up the registration process.

3.2 Allow the Certificate to Foreign Government (CFG)/Certificate of Free Sales (CFS) to be submitted to TFDA before licensing. In November 2015, TFDA conducted an initial screening of its review mechanism. CFG/CFS was listed in the initial review as an essential item on the checklist. With this approach, many product submissions cannot be filed until the CFG/CFS is available. Given the rapid changes in modern science and technology, life cycles of medical devices are becoming shorter and shorter. Delayed submissions will prevent Taiwanese from benefiting from advanced medical devices and technology in time. We suggest permitting the CFG/CFS to be provided to TFDA not only at the time of submission, but also before licensing.

3.3 Accept the legal manufacturer as having responsibility for regulatory compliance. The Global Harmonization Task Force defined “manufacturer” as a natural or legal person with responsibility for the design and/or manufacture of a medical device. This person has ultimate legal responsibility for ensuring compliance with all applicable regulatory requirements for the device. Although it has become common for the physical production to be outsourced to a contract manufacturer, the design, performance quality, safety, and efficacy of the product – and the regulatory compliance – should remain the responsibility of the legal manufacturer. Accordingly, in the United States, European Union, and other major advanced countries, the legal manufacturer is the one to be regulated by the authorities. We recommend adoption in Taiwan of the concept of legal manufacturer to enhance harmonization with international regulations and accelerate the registration process for medical devices in Taiwan.

Suggestion 4: Allow information related to medical devices to be shared with the public.

With the introduction of balance billing and self-payment options for certain medical devices, patients need to be able to make informed decisions about the different devices available for use in their procedures. Healthcare-providing institutions and manufacturers should have the responsibility to educate the general public about product characteristics, applicable techniques, and relevant medical technology. If such information is openly shared, patients and their families are likely to have less concern about pending medical procedures and will be better able to make judgments regarding related payment issues. However, current regulations in Taiwan restrict the information that hospitals and medical device manufacturers (license owners) can disclose for some devices. Instead, people may turn to social media or web searching tools to obtain related information. Such information, if not authorized by the company or approved by the health authority, may be misleading or inaccurate.

In this age of globalization, we recommend that TFDA revise the pertinent regulations to permit the release of information aimed at educating the public, differentiating it
Suggestion: Permit foreign-licensed doctors of chiropractic to practice their profession with appropriate status.

The chiropractic doctor members of AmCham Taipei have presented basically the same issue in the annual Taiwan White Paper since 2006 – the lack of legal recognition accorded their profession by Taiwan, even though virtually every other major country in the world has implemented formal or informal mechanisms to acknowledge or even encourage the profession to give their citizens the benefit of chiropractic treatment to ease their aches and pain.

Two years ago, there were encouraging signs that the government was intent on finding a solution. The National Development Council (NDC) offered assistance; a series of meetings was held at the Ministry of Health and Welfare, and the issue even received attention from the Vice Premier. But frustratingly, the efforts came to naught. Despite attempts by representatives of the chiropractic association to reach out to the local medical community, certain members of Taiwan’s medical profession appear determined to block the acceptance of chiropractic in what constitutes a form of professional protectionism. Some of them appear to harbor a deep-seated antagonism toward chiropractic of the sort that has not been seen in other advanced countries for generations. In the United States and many other countries, for example, it is common for medical doctors and doctors of chiropractic to collaborate closely in providing holistic treatment to patients.

The new administration of President Tsai Ing-wen, Vice President Chen Chien-jen, and Premier Lin Chuan that has just taken office will be taking a fresh look at many longstanding problems and challenges confronting the Taiwan society and economy. The issue of chiropractic recognition deserves to be high on the list of issues that receive restudy from new perspectives.

Among the chief challenges for Taiwan in the years ahead is the rapid aging of the society – by 2025, one-fifth of the population is projected to be 65 years old or more – with enormous ramifications for the sufficiency and cost of resources to treat the ailments of the elderly. In this regard, chiropractic – as a form of therapy that uses neither drugs nor surgery – could be of great benefit to Taiwan’s senior citizens while relieving some of the strain on national medical resources and the health insurance program. Another growing segment of the population that chiropractic could well serve includes those who engage in running, cycling, hiking, and other physical pursuits. The increasing popularity of these activities in Taiwan is a highly positive development in terms of overall fitness, but it also means more and more people suffering from aches, sprains, and other injuries of the type that chiropractic can help alleviate.

As a result of their long and specialized training, doctors of chiropractic are uniquely well-positioned to deal with many of these ailments. After receiving an undergraduate college diploma, they undergo five years of rigorous education at a college of chiropractic. The small number of doctors of chiropractic in Taiwan have all passed examinations and been licensed in other jurisdictions, chiefly the United States and Canada. But they are forced to practice the profession in Taiwan in a state of limbo, without any long-term security.

Despite the advocacy support that the World Federation of Chiropractic provided to help Taiwan gain observer status in the World Health Assembly in 2004, that good will has not been adequately reciprocated. In the interest of fairness and the potential benefit to Taiwan patients, Taiwan should join the approximately 85 other countries in the world that have provided a legal basis for chiropractic. Taiwan could start by following Hong Kong’s example in first recognizing the degrees and licenses obtained overseas by practitioners already in this market. That step, by bringing the profession out of the shadows, would serve to create a suitable environment for gradually developing local educational curricula and a domestic licensing regime to ensure the long-term sustainability of the profession in Taiwan.

Tobacco

Suggestion 1: Consult with the public before making any drastic changes in tobacco tax policies.

In this section in the 2014 and 2015 Taiwan White Papers, the point was stressed that the government’s policies regarding the tobacco excise tax and Health Surcharge Tax (HST) policies should be based on the principles of “reasonableness, moderation, and predictability.” Adherence to these principles would help lower the risk from illicit trade in cigarettes, which tends to increase – as past history has shown – whenever drastic changes are made in the amount of excise tax or HST.

During 8th Legislative Yuan (2012-2015), the government had proposed amendments to the Tobacco Hazards Prevention and Control Act (THPCA) aimed at significantly increasing the HST by NT$20 per pack. However, the amendments failed to pass through three readings during the term of the 8th Legislative Yuan because public opinion has continued to question the mechanism used for adjusting the
tobacco excise tax and HST, the practicability of combining the two taxes, the way the HST fund is utilized, and the tax loss suffered by the national treasury as a result of the growth in sales in Taiwan of “cheap whites” – cigarettes manufactured legally in one country and then smuggled into another to avoid customs duties and taxes.

The government is encouraged to continue to adhere to the principles of “reasonableness, moderation, and predictability.” We recommend that before any further legislation is proposed or other measures adopted, the government first provide clear explanations on the workings of the tobacco tax adjustment mechanism, the feasibility of combining the HST and excise tax, the use of the funds collected under the HST, and the negative impact of the proliferation of cheap whites on tax revenue. Based on the public response to those explanations, the government will be better able to consider whether an increase in the tobacco excise tax and HST is necessary, and if so, the proper level of adjustment.

**Suggestion 2: Consult widely within the government and with stakeholders before adopting any tobacco regulatory measures to avoid international trade disputes and other unforeseen consequences.**

Several tobacco control regulatory measures advocated by some private associations and legislators, such as a ban on the use of additives in tobacco products and the mandating of plain packaging for those products, may violate Taiwan’s international trade commitments under the World Trade Organization (WTO), which could result in unintended negative consequences. In a ruling on a dispute between the United States and Indonesia, for example, the WTO found that measures imposed by the United States to prohibit sales of clove-flavored cigarettes violated the WTO Agreement on Technical Barriers to Trade. In another case still under review by the WTO, four countries – Cuba, the Dominican Republic, Honduras, and Indonesia – have challenged Australia’s Plain Packaging Act as violating the protection of trademarks and intellectual property rights as stipulated in the Agreement on Trade Related Aspects of Intellectual Property Rights and the Agreement on Technical Barriers to Trade.

Currently, legislators in Taiwan have proposed to ban the use of flavoring additives in tobacco. Such a ban is likely to lead to international trade disputes, just as it did in the 2009 example cited above in which the United States, with the aim of reducing smoking by minors, passed legislation banning domestic sales of flavored cigarettes, such as those flavored with clove, vanilla, or licorice. Indonesia filed a claim with the WTO’s Dispute Settlement Body, and in April 2012, the WTO ruled that the U.S. legislation violated the Technical Barriers to Trade Agreement.

Moreover, there is no scientific evidence that flavoring bans have any effect on smoking by minors or smoking prevalence in general. Thus, banning flavored tobacco products will not achieve the public health goals of reducing smoking. If such a prohibition is instituted, in addition, consumers of flavored tobacco products will likely turn to illegal channels to purchase them, which would have a negative impact on government tax revenues and the tobacco retail sector.

With regard to another tobacco regulatory measure under discussion – a ban on point-of-sale display – there is no reliable evidence that it would meet its intended objectives, as it is not based on credible, scientifically rigorous studies of smoking behavior. A retail display ban would simply raise operational costs for retailers, while exacerbating the illicit trade problem by making it harder to discover the presence of illicit goods in retail outlets.

In short, before any proposed tobacco-control legislation is enacted, it would be prudent to undertake a thorough assessment of its likely effectiveness in reducing smoking rates and to weigh that against the potential impact on the overall trade environment and the interests of the lawful tobacco industry.

**Recommendations:**

1. Government policymaking in the area of tobacco control should be based on input from all concerned authorities, including the Ministry of Economic Affairs, Ministry of Foreign Affairs, Ministry of Finance, and Ministry of Health and Welfare, in order to strike a proper balance among trade benefits, international relations, and public health concerns.

2. Before introducing any further tobacco-control measures, the government should consult with all stakeholders potentially affected by the policies so as to benefit from their experience and practical perspective during the policymaking process. Such consultation will also ensure that regulators gain a practical understanding of how a measure will function once implemented, thereby avoiding unintended consequences and prompting consideration of alternative solutions. This exercise would help identify alternative proposals that would be more effective tools in decreasing smoking rates. These measures include, for example, focused public-education and awareness campaigns, as well as providing more resources and manpower for more effective, targeted enforcement of existing tobacco-control regulations. The best policies are ones that maximize the effectiveness of tobacco control while producing the lowest social costs.

**VETERINARY HEALTH**

Taiwan’s livestock farmers and veterinarians, under the constant threat of significant economic losses from disease, take good care of the animals under their watch with the available tools. Still, disease challenges continue to emerge
and re-emerge on the island, including the recent outbreaks of High Pathologic Avian Influenza (HPAI), Porcine Epidemic Diarrhea (PED), and Porcine Circovirus (PCV). To combat these diseases, Taiwan’s livestock industry needs all potential tools as soon as possible, including biological (vaccine) products, which often are the best method to protect animals.

Although the Council of Agriculture (COA) oversees a thorough livestock vaccine registration review, the process slows the availability of these new or updated vaccines to combat the various diseases, often adding years to the approval process. The delay in availability results in economic losses for the Taiwan livestock agriculture industry, but certain administrative steps, if addressed, could accelerate the registration process for livestock vaccines.

**Suggestion 1: Remove the requirement that the initial dossier submission include field efficacy studies.**

Few markets in the world require a field efficacy study as part of the initial document submission and then also require a local field efficacy study to be conducted. The COA should consider removing product field efficacy studies as part of the initial submission, as having this requirement means Taiwan needs to wait for the data to be available globally, delaying the entire process.

**Suggestion 2: Allow local lab and field studies to proceed concurrently with the dossier review.**

Taiwan is among the jurisdictions that require various in-country trials as part of the registration process. But Taiwan is unique in requiring that ALL questions from the dossier review process by regulators and the review committee must first be addressed and satisfied before the local lab and field trials may begin. This step-by-step approach is unnecessarily bureaucratic and needlessly prolongs the process, especially when the COA review committee meets only four times a year. COA could streamline the process by allowing companies to begin the local lab and field trials on submission of the dossier package. It would also be helpful if COA could create a list of approved labs that can conduct these studies.

**Suggestion 3: Allow study protocols to be designed and provided by the submitting firm for running local lab and field trials.**

When governments require local lab and field trials, they generally allow the use of study protocols that are designed by the submitting firm, although the authorities retain the right to review and revise the study protocol provided by the applicant.

Taiwan is unique in requiring a government-appointed investigator to design Taiwan-specific protocols. This uniqueness adds unnecessary time to the registration process when submitting companies need to train and familiarize the investigator on the product characteristics to have a Taiwan-only approach. There have been instances of products approved in other markets that failed the Taiwan registration because the locally designed protocol was ineffective. The requirement for local design should be removed to allow the use of protocols designed by the submitting company.

**PHARMACEUTICAL**

During 2015, the Taiwan government began preparations for a number of policy adjustments to bring about greater conformity with international practices and standards. As part of that exercise, the authorities also engaged widely in dialogue with stakeholders and took their recommendations into consideration.

The Pharmaceutical Committee applauds the progress that the Taiwan Food and Drug Administration (TFDA) has made in preparing regulations for patent linkage and data exclusivity. This legislation will aid Taiwan in establishing consistency with international practices, and help expedite Taiwan’s participation in bilateral free trade agreements and multilateral agreements such as the Trans-Pacific Partnership (TPP) and the Regional Comprehensive Economic Partnership (RCEP). It will also create an environment that encourages and rewards investment in innovation. We hope the government will continue to work on developing increasingly robust intellectual property regulations.

Another new initiative is the launch by the National Health Insurance Administration (NHIA) of a patient commentary platform. The hope is to gather patient feedback for reference when new drugs are reviewed for the NHI reimbursement system. Though welcome, this step does not address the innovative pharmaceutical industry’s concern over the pricing and reimbursement of new drugs. For example, a large gap still exists between the reimbursement prices in Taiwan and those of the 10 benchmark advanced countries. Moreover, the unpredictability of the new-drug pricing review timeline also presents problems. These continuous challenges could potentially delay patients’ access to the new drugs they required.

In addition, with the three-year pilot run of the Drug Expenditure Target (DET) system now completed, the price-adjustment mechanism has become more predictable than in the past, and the recognition of single compound patents of combination formulation was a positive development to encourage innovation on dosage forms. Much room for improvement still remains, however, on the issues of transparency, predictability, and the reasonableness of pricing.

While both the TFDA and the NHIA have voiced support for expediting the introduction of new drugs into Taiwan, the hospitals’ profit-based decision-making process and
their limits on the number of drug formulary items have consistently hindered the government’s efforts to make more new drugs and treatments available to patients. Considering the importance of this issue, the Committee wholeheartedly recommends that the government continues to push for the complete implementation of separation of dispensing and prescribing.

As a key stakeholder in Taiwan’s healthcare system, the research-based pharmaceutical industry looks forward to continued open dialogue with the government on these issues. We offer the recommendations below in the interest of helping to ensure that the people of Taiwan have access to innovative medicines enabling them to enjoy healthier lives.

**Suggestion 1: Continue to strengthen IPR protection for innovative products, so as to ensure that the investment environment rewards innovation.**

Creating an investment environment in Taiwan that encourages and rewards innovation will be essential for Taiwan’s future participation in further bilateral and multilateral free trade agreements. It is also in line with the government’s policy objective of encouraging Taiwanese biotech companies to develop new drugs for the international market. To achieve those goals, it is necessary to continue strengthening the protection of intellectual property rights.

In the opinion of the Committee, the major gaps between Taiwan’s current regulatory framework and that of high-standard trade agreements are:

1. **Lack of complete patent linkage mechanisms.**
2. **Limited data exclusivity, which is confined to new components of new drugs.**
3. **Lack of consistent application of patent-right protection across different government agencies.**

The Committee recognizes the TFDA’s progress in the past year in preparing the rulemaking framework for patent linkage and data exclusivity and engaging in inter-ministerial integration. We hope to see completion of these efforts and establishment of a complete support mechanism in the near future.

Also encouraging were the NHIA’s efforts in 2015 to broaden the patent definition for Category 3A new drugs to include products with combination patents, as well as to increase the R-zone from 3% leeway to 5%. These are also positive developments toward facilitating the introduction of new drugs into Taiwan. However, the issues of hospitals’ profit-making orientation and limitation on formulary items still significantly delay patient access to new drugs. The two percentage point increase in the R-zone in certain 3A products is not sufficient to help narrow the price gap, especially when the Ministry of Health and Welfare (MOHW) rewards the use of domestic new drugs through the hospital accreditation process and maintains a high-price policy for generic drugs. Government action is needed to secure more room for innovative new drugs that fulfill unmet clinical needs.

**Recommendations:**

1. **Complete the legislative process for patent linkage and data exclusivity:**
   a. Establish a simple, clear and workable regulatory system for patent linkage.
   (1) Follow U.S. practice by listing by patent number instead of patent claims to prevent TFDA from being embroiled in potential disputes over certification.
   (2) Rigorously implement IPR protection by releasing licenses and reimbursement prices to others only after the originator’s patent has expired.
   b. Extend data exclusivity coverage to new formulations and new methods of administration.
   c. Achieve inter-ministerial alignment within the central government for consistent regulation for IPR protection.

2. **Recognize all patents granted by the Taiwan government.**
   Drugs that have effective patents recognized by the Taiwan Intellectual Property Office (not just compound patents but patents of all kinds, such as those covering use or indication, formulation, process, or salts, crystalline, polymorph, etc.) should be deemed as patented products.

3. **Give special consideration to 3A items for price protection under DET.**
   For category 3A new drugs, NHIA has agreed to broaden the patent definition to include combination patents and to increase the R zone from 3% to 5% within four years from 2015. The Committee urges NHIA to provide additional protection to certain types of products:
   a. **Items under data exclusivity or within the surveillance period.** As the objective of data exclusivity is to protect the data for new drugs, no generics should be on the market during this period. If new drugs face significant price risk due to the availability of generics, they may not be launched in Taiwan, depriving patients of access to the medication.
   b. **Items with Risk Management Plans.** Pharmaceutical companies make significant investments to implement RMP for drug-safety monitoring so as to reduce adverse effects on patients and help NHIA control spending.
   c. **Mono-source compounds.** Although the compound is off-patent, in the absence of generics only a single source may be available in the market. If these items suffer significant cuts and exit Taiwan, patient access will be impacted. Since no alternative source is available, they merit a 15% R zone.

**Suggestion 2: Expedite the regulatory and reimbursement reviews of new drugs/ indications to ensure early patient access to innovative new drugs.**

The adoption of innovative new drugs is one of the most...
important factors in improving people’s health. According to research data, the introduction of new drugs accounts for as much as 73% of the increase in life expectancy in developed countries. Another research study shows that 83% of the almost three-year increase in cancer patients’ survival since 1980 can be attributed to new treatments.

Worryingly, however, the regulatory review in Taiwan of new drugs and new indications is now taking longer than before. In 2014, TFDA’s review of new drugs (NCEs and new biologics) took 443 days (an increase of 35.5% from 2013), and for new indications it was 314 days (a 67.9% increase). In 2015, while the numbers slightly improved from 2014, there is still a substantial gap from the 2013 approval timelines. New-drug review took 421 days last year (28.7% longer than in 2013), while new indications took 312 days (66.8% longer). The Committee is deeply concerned that the delay in approvals will seriously impact patients’ right to receive needed medications.

In addition, the Second Generation National Health Insurance program has now been in place for three years, but the issues surrounding new drug/indication reimbursement have worsened compared to the First Generation. Approval rates are lower, the review time is longer, and the prices approved continue to be much lower than the international median prices. On average, the reimbursement review for new drugs now takes 414 days, longer than under the First Generation. Worst of all is that the cancer drug review took 714 days, without any sign of improvement. Only 62% of cases received approval by the PBRS (Pharmaceutical Benefit & Reimbursement Scheme) meeting, while the effective reimbursement rate, accounting for companies that did not accept the offered price, was an even lower 42%. The Committee strongly urges NHIA/MOHW to expedite the review process and improve new drug pricing to help ensure that patients’ medical needs are met.

Recommendations:
1. Improve and expedite the new drug regulatory review process. Both new drugs and new indications could be reviewed more effectively to speed up the timeline. Industry is pleased that TFDA has set a 2016 target for itself to review new drugs in 360 days and new indications in 180 days. We urge TFDA discuss means of improvement with industry and set mutually agreed-upon milestones to meet this timeline.

2. Increase the budget for new drugs/indications. To support the availability of future new drugs to meet patients’ needs, industry urges MOHW/NHIA to devise new methodology, based on a reasonable estimation, predictability, and sustainability, to enable the budget to be increased for new drug/indication reimbursement within the Global Budget environment. Special attention should be given to breakthrough new drugs that provide exceptional treatment outcomes for unmet medical needs. A priority review pathway should be established for such drugs.

3. Provide more options for different new drugs by introducing appropriate MEAs or RSPs. We suggest that NHIA introduce more diversified MEAs (Managed Entry Agreements) and RSPs (Risk Sharing Programs) and provide more flexibility for companies to share the risk with government, especially for highly priced new drugs. The industry believes that such measures will help expedite the reimbursement process.

4. Establish a reasonable timeline for new drug/indication review and incorporate patients’ opinions into the process. The Committee suggests that NHIA and industry representatives work together to set up reasonable timelines for new drug/indication review. As part of this process, all relevant documentation – including Health Technology Assessment (HTA) reports and minutes of the expert meetings and PBRS meetings – should be made available to key stakeholders. We also suggest that NHIA evaluate the possibility of inviting patient representatives to join the review and decision-making process.

5. Conduct periodic discussions with industry groups. We suggest that TFDA and NHIA hold periodic discussions with industry groups to further improve communication, exchange information, and build support for policy implementation.

Suggestion 3: Provide more funding to the healthcare system to enable it to meet future challenges.

The Committee would like to express our gratitude to NHIA for maintaining an open dialogue with the pharmaceutical industry over the past year and responding to the industry’s suggestions by gradually reducing gaps in the price-adjustment mechanism. We believe that continuing communication between government and industry will facilitate the search for a transparent, predictable, and more reasonable mechanism for drug-price management. Taking DET as an example, the program, which has now completed its three-year pilot run, has brought better predictability than the Price-Volume Survey (PVS) approaches of the past, although the Committee believes the plan could be improved further to make the drug-price adjustment model more reasonable while still ensuring the sustainable operation of the NHI system.

We also acknowledge NHIA’s dedicated efforts over the past year in reducing wastage in medical resources. The Pharma Cloud initiative to make patients’ complete medical record accessible has achieved excellent results since its inception in 2013. In addition to enhancing patient medical safety, it has also effectively reduced waste from repeat prescriptions. In the future, full implementation of the HIS
Cloud will further enhance healthcare service efficiency and assure the availability of comprehensive and secure medical treatment for the public.

Besides waste reduction, Taiwan’s healthcare system needs the input of more resources. In 2013, Taiwan’s National Health Expenditure (NHE) amounted to NT$960 billion, equal to 6.63% of GDP. The NHE average in OECD countries during the same period was 9.3% of GDP. Up to 41.5% of the expenditure in Taiwan was through the private sector (mainly self-paid health expenditures such as NHI copayment, self-purchased medical supplies, etc.). The public sector component was only 58.5% (including NT$502.1 billion for NHI), far less than the 72% public-sector average in OECD countries. As the data shows, Taiwan not only has a relatively low overall health expenditure, but the contribution from the government sector is also unusually low.

Taiwan’s healthcare system also faces the problem of budget shortages for new medical technology. Over the past three years, NHI set aside a budget of about NT$2 billion annually to introduce new clinic items, medicines, and medical devices. During the discussion at PBRS committee meetings on whether to add new items, however, committee members often expressed concern over the budget impact, resulting in a lower approval rate for new drugs. From 2009 to early 2016, Taiwan’s reimbursement rate of new drugs was about 42%, far lower than the 54% average in OECD countries. This means that Taiwanese people may have to wait longer or self-pay to receive the benefits of new drugs.

The Committee urges the Taiwan government to continue to take effective measures to reduce medical resource waste as well as to take a more positive approach towards resource re-allocation. Our specific recommendations are as follows:

1. Increase healthcare expenditure and provide an adequate budget for new drugs. We urge the Taiwan government to refer to the experience of OECD countries and increase health expenditure to a reasonable level, especially by increasing spending in the public sector and planning an adequate budget for new drugs (including expenditures needed to cover policy changes, such as the transfer of HIV/AIDS costs to NHI starting in 2017). New drugs should be introduced in a timely fashion to maintain healthcare quality in line with global trends.

2. Develop a patient-centered policy to accelerate introduction of new drugs into hospitals. In addition to obtaining a license and NHI reimbursement from the government, new drugs must be listed in the drug formularies of the hospitals before physicians can prescribe the medication to patients. At present, hospitals generally apply a “one-in, one-out” principle at the time of a drug entry. That is, a new drug may be introduced only after an existing drug is removed. This practice affects patients’ right to medication. Often only one or two items of a new drug that comes in several dosage forms can be introduced at a time, but the dosages or formulations that are available may not be what is most suitable for or most needed by the patient.

Adding to the problem for imported products, the Taiwan government has listed “use of local-made new drugs” as one of the accreditation criteria for medical centers. We call on the government to adopt a fair and patient-centric approach that treats imported and domestic drugs equally, particularly regarding inclusion in hospital accreditation indicators.

3. Initiate payment system reform. With the accumulation of more than NT$200 billion in reserves, NHI is now in its most stable financial condition in many years. We recommend that the Taiwan government seize the opportunity to carry out payment-system reform by adjusting the medical-service payment standard to reflect actual clinical costs, and enabling hospitals to provide adequate compensation and benefit packages for healthcare professionals to ensure sufficient physician and nursing manpower. Through such reform, hospitals would no longer have to rely on drug-price margins to sustain their operations, restoring order to the pharmaceutical market.

4. Spearhead implementation of separation of dispensing from prescribing (SDP). The Committee has continually urged the Taiwan government to implement the separation of medical and dispensary practice. One of the keystones of SDP is to preserve doctors’ autonomy to prescribe the drugs most suitable for treating the patient’s condition. Another benefit is that community pharmacists are empowered to monitor prescriptions and help safeguard patients’ use of drugs.

At present, however, hospitals in Taiwan generally seek to “maximize” drug profits by taking advantage of formulary-listing restrictions and price competition. Even if a new drug has obtained a license and NHI reimbursement, the patient may still be unable to receive treatment with the drug due to the hospital’s drug-management rules. The Committee believes that when a drug has been listed among the items receiving NHI payment coverage, the hospital must not limit the patient’s right to medication due to profitability considerations.

We urgently appeal to the Taiwan government to take action to implement SDP, ending hospitals’ practice of deriving profits from drug prescriptions, and thus ensuring patients’ right to the drugs they need.

PUBLIC HEALTH

The Committee would like to commend the Ministry of Health and Welfare (MOHW) for its impressive efforts with regard to childhood vaccination, cancer screening, control
of chronic disease, health promotion, HIV/AIDS prevention and control, and many other important public health issues, as well as for maintaining an open dialogue with industry over the past year. Public health is one of the key contributors to societal stability and economic growth. Vaccination, for example, is one of the most powerful and cost-effective measures for fighting disease. Besides preventing illness and death – and saving the cost of care and treatment – it also brings the economic benefit of reducing the amount of lost work and lowered productivity. With the exception of clean drinking water, no other modality can rival vaccination in its ability to reduce mortality rates.

There is still room for Taiwan to further improve its preventive healthcare compared with other advanced countries. Statistics from 2013 show that OECD countries spent an average of 3% on prevention as a share of total health spending, compared with only around 0.6% in Taiwan. As for communicable disease prevention, Taiwan spent only 0.17% of health expenditure on vaccination, even less than Korea and Japan, which were both over 0.4%. In terms of immunization rates, child vaccination in OECD countries is 95%, whereas in Taiwan it is a slightly lower than 93%. The difference is bigger for influenza vaccinations for the elderly, where the OECD average is 49% and Taiwan’s is around 40%.

This year the Committee provides the following suggestions for reference.

**Suggestion 1: Put increased emphasis on preventive medicine, including increasing the budget for vaccination and stabilizing the National Vaccine Fund.**

Currently the National Vaccine Fund relies heavily for its financial resources on the health and welfare surcharge on tobacco products. As the amount of the surcharge that is allocated to the Vaccine Fund fluctuates year by year, the Fund’s financial basis is not stable, often resulting in delayed implementation of vaccination plans. In 2015, the tobacco surcharge accounted for nearly 60% of the total NT$1.9 billion in the Vaccine Fund, while government budgetary funding contributed less than 40%. This year the total Vaccine Fund budget is NT$600 million less than last year, mainly because of a decrease in the tobacco surcharge allocation. The government was forced to postpone a new vaccine program.

As addressed in the MOHW’s 2025 Health and Welfare White Paper and “National Vaccine Fund and Immunization Enhancement Plan,” several vaccines recommended by the Advisory Committee on Immunization Practices (ACIP) are still waiting to be covered in the national immunization plan (NIP) because of budget constraints. These include pneumococcal vaccines for senior citizens, human papillomavirus (HPV) vaccines, rotavirus vaccines, and shingles vaccines. If all of these were to be implemented, the necessary incremental budget would be NT$1.4-1.5 billion – not a huge number compared with total National Health Insurance expenditures. Investing in vaccination is not only a matter of healthcare, but also increases the chances for economic growth. As the U.S. Centers for Disease Control and Prevention (CDC) has estimated, every dollar spent on childhood vaccinations brings ten dollars in savings in terms of medical and societal costs.

In this era of globalization and frequent international travel, there is a strong need to strengthen the protection to Taiwanese people through vaccination – and with the advancement of biotechnology, more and more vaccines will be developed and marketed. We therefore urge the Taiwan government to put increased emphasis on disease prevention and allocate sufficient government funding to provide NT$2.5-3.5 billion annually to the National Vaccine Fund as envisioned in the MOHW 2025 White Paper, so as to assure steady future growth for a sustainable vaccine implementation plan. With the rapid aging of Taiwan society, it is especially vital to plan a vaccine strategy specifically for the elderly.

Before the government funding is fully allocated, we encourage the adoption of a phased implementation approach, as well as a flexible partial funding mechanism as previously discussed in ACIP so as to leverage private resources to improve the accessibility of vaccines and maximize the benefits they can bring to the Taiwanese public.

In the future, we urge the Taiwan government to build up a comprehensive plan to integrate preventative services and medical care, maximizing the efficacy of the overall system to provide holistic health care as an ultimate goal.

**Suggestion 2: Increase evidence-based investment in cancer prevention and treatment to reduce the economic burden and loss of life.**

According to 2015 statistics released by MOHW, cancer topped the nation’s 10 leading causes of death for the 33rd consecutive year. Cancer’s economic impact is also greater than for any other cause of death. A report from the American Cancer Society published in 2010 estimated the economic impact of premature death and disability from cancer worldwide – not including direct medical cost – at US$895 billion in 2008, a figure equal to 1.5% of the world’s gross domestic product. In Taiwan, a paper published in 2015 in the Taiwan Journal of Public Health showed an estimated economic loss due to cancer of around NT$21.8 billion in 2012, much higher than the NT$12.3 billion caused by injuries. It was found that cancer reduces the length of a victim’s life by an average of 27.5 years and working life by 7.3 years.

As addressed in the MOHW’s 2025 Health and Welfare White Paper, MOHW has aligned with World Health Organization (WHO) policy objectives to reduce the cancer
mortality rate and premature death rate by 25% by 2020, and reduce the mortality rate of those in the 30-70 age bracket 25% by 2025. Until now, however, the cancer incidence and mortality rates have continued to increase, resulting in more loss of life and economic loss.

Given the widespread global trend for governments to increase investment in cancer prevention and treatment, Taiwan should reallocate its current medical resources to address this major public health issue and achieve the policy goal of significantly reducing the cancer mortality rate. More effort is needed on prevention strategies, including the elimination of carcinogenic factors, increased cancer screening. In addition, more investment and timely reimbursement in innovative cancer treatment for unmet medical needs are needed to achieve this policy goal.

We suggest that MOHW review the current National Health Insurance reimbursement allocation based on health-technology economic assessments, reallocating resources to cover new technologies and treatments that help patients regain a normal quality of life, resume normal work and social capabilities, and in general return to normal lives.

Suggestion 3: Actively implement a national program for the prevention and control of viral hepatitis.

Currently 400 million people worldwide are living with either hepatitis B or hepatitis C, with no country left unaffected. The World Hepatitis Alliance and the WHO jointly organized the first-ever World Hepatitis Summit in Glasgow in September 2015 and released the Glasgow Declaration on Hepatitis, marking a pivotal step in the road to eliminate the world’s seventh biggest killer. The Declaration calls upon all governments and stakeholders to cooperate in developing and implementing comprehensive, funded national programs. The strategy aims to achieve a 90% reduction in new cases of chronic hepatitis B and C, a 65% reduction in deaths from hepatitis B and C, and treatment of at least 80% of persons with chronic hepatitis B and C infections. The Declaration states a commitment to work toward the elimination of viral hepatitis as a public health concern by 2030.

Viral hepatitis and its aftereffects are important public health and healthcare issues in Taiwan. Taiwan has a very high prevalence of the hepatitis B and hepatitis C virus — 12% for HBV and 4.4% for HCV — and there are an estimated 3 million-plus HBV and HCV carriers.

Taiwan has made significant headway in fighting HBV and its related diseases. A milestone was the 1984 implementation of the world’s first largescale hepatitis B vaccination program, which helped slash the carrier rate in children from 10.5% to 1.7%. In addition, by broadening access to effective HBV treatment, related chronic liver diseases including hepatocellular carcinoma (HCC) or liver cancer have declined in the past few years. On the other hand, HCV control still faces challenges, including low diagnosis rates and low treatment rates due to lack of access to innovative treatments. Despite a government-sponsored screening program, only 30% of HCV patients are diagnosed and less than 10% have been treated in the past 10 years. The low diagnosis and treatment rates inevitably lead to higher risks of chronic liver disease and greater associated social and healthcare burdens.

Various researchers have confirmed that diseases related to chronic hepatitis B (CHB) and chronic hepatitis C (CHC) impose a substantial economic burden on patients, families, and society in Taiwan, including increasing healthcare costs related to disease progression, and work loss.

In the United States, over 200,000 adult in-hospital cardiac arrests (IHCA) occur yearly, with only 22-23% of such patients surviving to hospital discharge. Extrapolating based on the ratio of Taiwan’s population to that of the United States and without factoring in the difference in medical advancement between the two countries, approximately 14,000 in-hospital patients in Taiwan can be expected to suffer cardiac arrest every year, and 10,780 of them will not survive the resuscitation efforts.

One study found that 59.4% of patients had at least one abnormal vital sign 1-4 hours before the arrest and 13.4% had at least one severely abnormal sign. The conclusion was that effective vital-sign monitoring is closely related to improving in-hospital mortality rates.

All in-patients should be monitored for vital signs. When the indicator is abnormal, the monitor sets off an alarm to alert hospital staff to take necessary action. But the alarms often merely create a cacophony of sounds. Statistically, some 88.8% of annotated arrhythmia alarms have been false positives. Excessive alarms can lead to alarm fatigue among hospital staff, desensitizing them to emergency situations that
threaten the life of the patient.

Because of the seriousness of this problem, the Joint Commission International (JCI), when auditing patient safety related indicators in hospitals, makes special requests for improvements in the clinical alert systems (CAS) to define the most important alarm signals and identify which alarm sounds correspond to real needs, not just creating noise and causing alarm fatigue.

To enhance the safety of hospital patients, we recommend that MOHW include CAS improvement in its hospital accreditation guidelines, referring to indicators used by the JCI for hospital accreditation. That step will help hospitals clearly define the important emergencies and signals that warrant the immediate attention of hospital staff to better protect patient safety.

**Suggestion 5: Expand the antimicrobial stewardship program to cut down the misuse of antibiotics.**

Even when given the best possible preventative care, livestock may become sick and require the use of antibiotics. But it is important to avoid overuse. As the U.S. Food and Drug Administration notes on its website: “We know that all uses of antimicrobials, whether in humans or animals, can spur resistance.” The Committee supports the efforts of the Council of Agriculture (COA) to control overuse. For example, since 2005 the COA has been removing growth-promotion claims from the labels of antibiotics that are deemed “medically important” – that is, important for human healthcare. We also support COA’s effort to track all the antibiotics being used in the livestock industry by asking local manufacturers to report the names of customers and the amounts sold. COA’s testing of maximum residue levels (MRLs) using the MOHW’s standards is also to be commended for its efficiency. Inevitably, however, there are further actions that could be taken to strengthen and deepen the existing programs so as to enhance antimicrobial stewardship in Taiwan.

- We encourage the COA and MOHW to openly publish the data that they are tracking on a monthly basis to identify the total amount of antibiotics being used in livestock production in Taiwan. Without accurate data on the overall usage and the different molecules being used, it is difficult to track the degree of progress in reducing the use of medically important antibiotics in livestock production.

- One of the best methods to reduce antibiotic use in livestock, while keeping antibiotics available for treatment in the animal-health industry, is to encourage the use of injectable antibiotics. Only sick animals need to be injected, whereas oral antibiotics are generally included in the feed or drinking water of all the livestock, which often results in either overdosing or underdosing. We urge the COA to promote the use of injectable antibiotics among farmers so veterinarians and farmers have that option for treating certain diseases in animals while reducing the overall use of antibiotics.

- Certain anticoccidials and antimicrobials used in livestock production are not considered medically important for human health. We urge the COA and the MOHW to consider using a different methodology to regulate this class of anticoccidials and antimicrobials compared to those that are medically important to human health. We believe that medically important antibiotics for humans should be tested more frequently and more strictly, so as to prevent the over usage of these antimicrobials by livestock producers and thus truly protect them for human use.

At the same time, the COA and MOHW should reduce the complexity and frequency of tests for the antibiotics that are NOT considered medically important. Finally, the COA and MOHW should set MRL levels for ALL antimicrobials in this class for all species, and not simply use the classification “cannot be detected” in its regulations.

**REAL ESTATE**

The Committee commends the government for its continued efforts to increase real estate market transparency, improve property taxation, and maintain a fair market. At the same time, we note that further changes are needed in the current regulatory regime if Taiwan is to reach its potential within the international investment market. Global cross-border investments in real estate reached US$244 billion in 2015, accounting for 32% of the total value of property transactions. Most investors prefer to allocate their investments in markets that are highly transparent and secure. In order to continue attracting foreign funds, Taiwan therefore needs to continue to make improvements.

Below, the Committee presents several suggestions in hopes of stimulating discussion with the relevant governmental agencies in order to further improve market conditions in Taiwan and to help promote Taiwan as a thriving real estate investment destination.

**Suggestion 1: Equalize property taxation for domestic and foreign property owners.**

A new property tax scheme came into effect on January 1, 2016, combining what previously were separate land and building taxes, and readjusting the tax rate. In addition, the new scheme includes several measures aimed at reducing speculation in the form of property flipping. One clause, for example, states that for domestic property owners who re-sell properties within one year of acquisition, a tax rate of 45% will be applied. For property held for a longer period, the rate
will be gradually lowered until it reaches 15%. For foreign owners, the tax rate for property resold within a year is the same 45%; after one year, however, the rate remains at 35% no matter how long the property is held.

The Committee urges the government to reconsider this policy, since it is likely to discourage foreigners — whether individual or corporate — to acquire property in Taiwan, with a dampening effect on the market. The government understandably wishes to prevent market overheating, but that objective can be accomplished through other measures, such as mortgage control, density control, etc. In the interest of fairness, we recommend applying the same tax rate structure to foreign and domestic property owners.

**Suggestion 2: Enact reforms in the treatment of real estate value appraisers.**

2.1 *Revise the Real Estate Appraiser Act to allow legal entities to provide valuation services.* In Taiwan, the real estate valuation business must be conducted either by accredited individuals or licensed partners without incorporation. The Committee urges the government to accelerate amendments to the Real Estate Appraiser Act that would allow the incorporation of valuation service providers as legal entities. This move would benefit the overall real estate industry and help protect clients’ rights. The proposed change in the rules would relieve the financial pressure on professionals, since valuers hired by an appraisal firm would have limited liability instead of carrying unlimited liability as a partner. Moreover, as valuation companies would be required to hold professional indemnity insurance, clients utilizing their services can feel confident that their interests are being protected.

Legal entities usually have a clearer business structure and adhere to a comprehensive code of conduct, which helps to ensure that a company meets its financial obligations. In addition, they are able to run the business more sustainably and are not affected by changes in senior management or partnership. Overall, the major benefits of allowing the incorporation of business entities in the valuation industry include:

a. Companies are covered by insurance, which will help relieve the burden of risk on valuers and therefore improve the recruitment of talent.

b. Companies have better audit and compliance procedures, which will strengthen the credibility of valuation reports.

c. Companies are of larger scale, capable of conducting extensive market research and establishing databases.

2.2 *Require banks to charter professional valuation professionals for transactions involving mortgage loans.* At present, domestic banks mainly rely on in-house valuation teams when reviewing mortgage applications, while foreign banks in Taiwan appoint a licensed appraiser to provide an independent opinion on the property value. The practice adopted by foreign banks ensures that they receive professional and objective advice on property conditions in line with global standards. On the other hand, undertaking valuation work internally may lead local banks to encounter problems such as conflicts of interest and bad debt.

The Committee urges the Financial Supervisory Commission to require banks, when extending credit on collateral, to hire an independent licensed valuer to produce an appraisal report that determines a current fair market value in order to prevent overestimation of property value and over-lending. In addition, banks should be instructed to draw up guidelines to evaluate appraisers’ performance and their accuracy. This step would help protect the interests of both banks and depositors.

**Suggestion 3: Simplify the urban renewal process to ensure housing safety and quality.**

Due to the dense nature of the urban environment in Taiwan, vacant land for building construction within major metropolitan areas is extremely scarce. Additionally, according to government statistics, the average age of residential buildings in Taipei is 29.2 years. More than 440,000 buildings are over 30 years old, and among them over 130,000 are over 40 years old and many of them are gradually deteriorating.

Approximately 3.2 million residential buildings in Taiwan are over the age of 30 years, accounting for 39.2% of the total housing stock. These older structures often detract from the aesthetic attractiveness of the urban landscape, and they are also less capable of withstanding natural disasters and extreme weather conditions such as earthquakes and typhoons. On February 6, 2016, for example, a quake of magnitude 6.4 caused several commercial and residential buildings to collapse in the city of Tainan. Among them, a 21-year-old residential complex consisting of nine buildings was destroyed, killing 115 people and injuring 96.

Moreover, older buildings are mainly low-rise, making for under-utilization of the land parcels. As a result, urban renewal has inevitably become a critical issue for improving the safety and quality of city life.

The current urban renewal process, however, is governed by numerous laws and regulations at both the central and local government levels. The approval process, involving numerous types of applications, is extremely complex and time-consuming. A typical renewal project takes three to seven years to obtain all the permits necessary to begin construction. Among the relevant laws and regulations are the Urban Renewal Act and its enforcement rules, directives for municipality or county authorities on the acceptance of...
applications from urban renewal executors, regulations on rights transfers under urban renewal, regulations on density bonuses, etc. If rezoning is needed, regulations such as the Planning Act and zoning by-laws are also applicable.

Due to the complex and extensive preparation, application, and approval processes, some developers forgo involvement in the urban renewal business and instead focus on rural areas, contributing to urban sprawl.

This Committee strongly urges government at all levels to recognize the importance and urgency of urban renewal and begin efforts to streamline the approval process and simplify the relevant laws and regulations. A thorough and comprehensive building inspection should also be carried out nationwide to identify severely deteriorated buildings and prioritize redevelopment applications for them.

When consent agreements are obtained from the vast majority of the property owners in a renewal zone, even though a few property owners continue to refuse to agree, the courts could be given the power to assist in finding a resolution. In the case of critical deteriorated buildings, it is also recommended that the court take forceful action even if full consent has not been reached.

However, any legal action taken by the courts must of course conform to the law, and respect general morality and humanitarian principles. In case of compulsory execution leading to property expropriation, the owner should be compensated at full market value. Equally important is for the urban renewal process to be kept fully transparent, with all relevant information and documents accessible by the residents and the public as applicable.

**RETAIL**

As the contribution of the services sector to the Taiwan economy continues to grow, retail activity will inevitably become a more important driver for the Taiwan economy. This Committee is committed to building a stronger partnership with government agencies in order to develop a stronger retail sector and address common challenges together.

In particular, the Committee believes that food safety in Taiwan can benefit from closer collaboration between industry and government. Our members are fully committed to support the government in enhancing food safety regulations and standards across Taiwan, and are pleased to note that collaborative efforts already undertaken with the Ministry of Health and Welfare (MOHW), Taiwan Food and Drug Administration (TFDA), and Food Safety Office have been very well received.

However, the Committee remains concerned by the arbitrary manner in which some new laws and regulations have been drafted and enacted in the purported interest of improving food safety. In many cases, food-related regulations were proposed without holistic consideration of the potential impact on the economy, society, and industry, or other factors. In view of these challenges, the Committee fully supports the Chamber's recommendation that Taiwan institute a legal framework similar to the United States' Administrative Procedure Act (APA). This step would ensure that any regulatory changes are made in a transparent, fair, and feasible manner. In addition, given the wide-ranging impact of the retail sector on the daily lives of Taiwan's citizens and Taiwan society, we believe it is critical for potential regulatory changes to be preceded and informed by a holistic Regulatory Impact Analysis (RIA). The RIA should be a collaborative effort among all key stakeholders, including the government, scholars, and industry players, and is commonly employed in other developed economies. Such an approach would improve the quality of regulation and ensure that all new regulations serve the interests of Taiwan as a whole instead of any narrow interest group.

As a WTO member and potential participant in the Trans-Pacific Partnership (TPP), Taiwan has a stake in ensuring that regulations are harmonized with her trading partners and aligned with international standards. While progress has been made in many areas by the Taiwan government over the past year, regretfully we have noticed several regulations and standards issued by TFDA that are not aligned with those of major trading partners. These include a recent ruling that packaged-food imports must undergo testing in a certified Taiwan lab, with testing reports from the home country no longer accepted. In addition, current regulations require a degree of detail in food labeling that goes far beyond what is demanded in any other market, adding greatly to production costs with little benefit to the consumer. Such “unique-to-Taiwan” regulations discourage the entry of high-quality foreign products into the market, reducing consumer choice and often constituting a technical barrier to trade that harms relations with trading partners and may hinder Taiwan’s TPP aspirations.

We have also observed differences in interpretation and practice regarding some food-related regulations between central and local government authorities. This phenomenon creates additional complexities and resource burdens as industry attempts to comply with the regulation. We hope the Taiwan Government will clearly define and standardize the interpretation and practice of regulation between central and local governments.

We strongly believe that by jointly creating a transparent, well-thought-through, and consistent regulatory environment, we will not only help protect Taiwanese consumers' interests, but will also significantly enhance the overall business environment for the long-term benefit of the Taiwan economy.
Suggestion 1: Ensure that the food safety rules-making process is transparent, with the regulations based on scientific and statistical evidence.

Food safety regulation is not a zero-sum game, but can benefit both consumers and the food industry. An ideal regulatory regime upholds food safety standards, but does so through a transparent and predictable system that makes it easier for food-related businesses to flourish.

Since March of this year, the National Development Council has been asking all government agencies, as part of Taiwan’s WTO commitments, to upload their English translations of all “trade-related” regulations. The exercise demonstrates Taiwan’s willingness to fulfill its international treaty obligations and determination to participate in international trade agreements. However, within the field of food safety regulation, there is still much room for improvement, especially with regard to transparency. At a time when Taiwan is preparing for a TPP candidacy, such measures to enhance transparency will be beneficial to Taiwan and appreciated by its trading partners.

In this regard, we would like to make the following recommendations:

a. Gradually translate all the recognized testing methods into English, the major international language, to assist foreign companies in complying with Taiwan requirements. Decreasing the incidence of disqualification will save time and cost for both importers and TFDA inspectors, and make international trade even more efficient. Currently too much time is wasted by importers and TFDA officials due to unclear test parameters.

b. Disclose test reports and testing methods on request, as another way to increase trade efficiency.

c. Ensure that food safety-related regulations and standards are clear and practical.

Following are examples of problem areas in food-safety regulation:

1) **Inspections without announcement or standards.** A series of inspections launched since last December by the Council of Agriculture (COA) checked for the presence of plasticizers in imported organic oils. No prior announcement was made, and no applicable maximum residue level (MRL) has ever been set for plasticizers in organic oils. In the absence of an announcement of such inspections and the standards to be applied, importers were unable to notify their vendor to comply with the new government action. The result was that tons of oil sat on the docks and in warehouse, and the economic cost for re-shipping and spoilage was enormous.

2) **Unique requirement on carried-over food ingredient labeling.** Article 22 of Taiwan’s Food Safety and Sanitation Act (FSSA) demands the breakdown and listing of all sub-components of food ingredients. The TFDA interprets the labeling requirement to mean that carry-over sub-components from ingredients must be included in the list of ingredients, even though they serve no technical function in the final product. For example, edible oil such as corn oil used as a dispersant/solvent of a food colorant or cornstarch used as carrier for a food flavor, serve no technical function in the final product, yet must be labeled in Taiwan products. The Taiwan FDA has exempted carry-over sub-components from being listed only if they are classified under food additives. This Taiwan labeling requirement conflicts with regulatory practice in the United States, European Union, and other major markets. In the United States, for instance, incidental additives that are present in a food at insignificant levels and do not have any technical or functional effect in that food are exempted from labeling. The unique-to-Taiwan labeling requirement has caused tremendous problems for U.S. food suppliers, since redeveloping the ingredient list on labels takes a great deal of time and effort. Further, during customs clearance, officials may challenge companies, demanding elaboration regarding the sub-components of ingredients. If the U.S. exporter cannot provide the requested information on the carry-over sub-components – which can easily happen, as such information is not readily available on the original packaging – the shipment could be blocked from entering Taiwan. The situation deserves to be explored as to whether it constitutes a technical barrier to trade.

3) **Unreasonable interpretation of regulations.** When pre-packaged foods are imported into Taiwan, it is natural that the nutritional values on the Chinese label may appear to differ from the ones from the exporting country, due to different methods for rounding off numbers and different rules for claiming nutritional value. However, TFDA officers conducting border inspections have regarded such inconsistencies as “misleading” – therefore constituting violations of Article 28 of the FSSA. Their disqualifying of such shipments has caused tremendous delays in the import process.

The intention of Article 28 in reference to “false, exaggerated or misleading” labeling is to counter any attempt to deceive consumers. The above-mentioned discrepancies between the Chinese and foreign labels did not involve any such purposeful effort to mislead or defraud, and therefore did not warrant any disruption in the import process.

Another example relates to the regulation of dietary supplements, which in Taiwan are classified as a food. Under current regulations, all imported foods in capsule or tablet form must be registered with the TFDA. For domestic products, however, only vitamins and minerals containing over 150% of the daily recommended dosage
require registration. This unjustified discrimination puts imported at a competitive disadvantage because of the time and cost needed for registration. According to the TFDA, the reason for the requirement is to eliminate the risk of such items being mistaken for pharmaceuticals (although the same risk should apply to domestic products). TFDA should create a more practical food supplement regulatory scheme focusing on function, rather than appearance.

4) Overly complicated organic food import process. Under current regulations, all imported organic products must apply for an Organic Labeling Permission Document in order to be labeled as “organic,” even if they have already been certified by organizations approved by the COA. The labeling permission document review is unrelated to the quality of the food, but is aimed mainly at confirming the weight and volume to satisfy the TFDA’s interpretation of the requirement in Article 28 of the FSSA that the labeling not be “false, exaggerated or misleading.” Other than that, there are no scientific or statistical grounds for this process. The procedure is also unnecessarily time-consuming. Even if “confirmation” is required, it should not need a month to complete.

Our recommendations:

a. More closely align the Organic Labeling Permission application process with TFDA border inspections for greater efficiency.

b. In line with COA’s promises earlier this year to simplify and shorten the current organic product import process, implement such new rules as soon as possible.

Suggestion 2: Encourage a new era of self-regulation by the private sector.

The Committee has long advocated establishing a system of advertising self-regulation to replace the existing government controls. Recent regulatory developments have reinforced our view that self-regulation in the private sector would serve to make government more effective and more efficient.

Referring to the many new food-related regulations adopted in recent months, these rules were often created haphazardly, in immediate response to particular incidents, without sufficient analysis of their cost-effectiveness or the impact on industry and the consumer, and without procedural transparency and adequate industry consultation. Maintaining this same model will only continue to result in complicated and Taiwan-unique regulations, stymie business development and investment, waste government resources on non-productive actions, and deepen public dissatisfaction with government effectiveness.

The practice of industry self-regulation is actually a co-regulation model that relies on cooperation among key stakeholders such as the government, industry, consumers, and non-profit groups in establish products and services standards and systems of enforcement. It has a proven track record of effectiveness in protecting consumer rights in advanced economies. For governments, it provides opportunities to deregulate and focus resources on the most critical areas needing government attention.

In the United States, for example, the Council for Responsible Nutrition (CRN) is a trade association embracing responsible consumer communications for dietary supplements. The CRN and the National Advertising Division (NAD) of the Council of Better Business Bureaus (CBBB) have worked together to monitor advertising for dietary supplements. This program enhances the marketplace by increasing consumer confidence in the truth and accuracy of advertising claims and encourages fair competition within the industry. There have also been very successful industry initiatives in the United States committed to children’s health and environmentally responsible practices. All these institutions are industry-supported NGOs that educate the public, investigate business practices, administer compliance, and enforce socially responsible business actions by publicizing problematic behavior. These self-regulation efforts by NGOs and individual companies have eased the government authorities’ burden and helped the good players to get rid of bad players to maintain the reputation of the industry as a whole.

This Committee feels highly encouraged that many business sectors in Taiwan are beginning to embrace this concept. Self-regulation initiatives such as systems helping to ensure food safety, improve regulations of cosmetics ingredients, and establish clear and stable advertisement guidelines have been taken up by committees and work groups under various trade associations. We sincerely recommend that the government seriously consider the benefits of this approach and take action to support and work with industry and other stakeholders to make it a reality.

Suggestion 3: Review the policy to penalize food-safety violators according to their sales or capital.

The “Standards for the Penalties Imposed under Article 44, Paragraph 1 of the FSSA” effective May 12, 2016 penalizes violators according to the size of the company, with penalties calculated by a formula that includes the amount of the company’s sales volume or paid-in capital. As this Committee pointed out in a position paper sent to the TFDA earlier this year, this approach deviates from the basic legal principal that punishment should reflect “the severity of the violation, the number of impacted consumers, or the amount of financial gain accrued through the violation” – not the company’s ability to pay.

With no supporting evidence, the paper said, the measure
“appears to imply that large food operators are more culpable.” In fact, it argues, “large-scale food importers, manufacturers, and distributors with a large capital base generally maintain higher standards of social responsibility, and can be expected to adopt strict measures and take quick action to minimize any health risk to consumers.”

The regulation is yet another Taiwan-unique approach that creates frustrations among companies operating in Taiwan and raises questions among Taiwan’s trading partners about this country’s commitment to following international standards and practices.

Suggestion 4: Recast the Cosmetics Act to avoid creating technical barriers to trade as well as drive regulatory transparency.

The Committee welcomes TFDA’s initiative to modernize the Statute for Control of Cosmetics Hygiene (the Cosmetics Act for short), which was first promulgated in the 1970s. We urge TFDA to harmonize the Cosmetics Act with similar legislation enacted by Taiwan’s major international trade partners, refraining from adopting unique regulatory requirements that could create technical barriers to trade posing impediments to Taiwan’s TPP membership. In addition, we also urge TFDA to start disclosing its decision-making rationale instead of maintaining unpublished internal guidelines. We offer the following specific recommendations:

a. Remove pre-market registration from the new statutory requirements. Draft amendments to the Cosmetics Act propose creation of a five-year transition period during which the current pre-market registration system would remain in effect, while at the same time industry would be required to be compliant with a new system of post-market control through Notification and Product Information Files (PIF). Such a dual-control system is a unique regulatory design found in no other country. It would impose a double burden on industry, while bringing no added value in protecting consumers. The Committee urges TFDA to follow the practice of other country’s regulatory bodies, which is simply to rely on post-market surveillance – for example, through Notification and PIF – as well as to foster industry self-regulation.

b. Ensure that any restrictions on ingredient use are based on scientific evidence and adopted in a transparent manner. In this regard, TFDA should disclose the review process and assessment rationale, and announce the results to industry with a sufficient period for consultation. Moreover, it should seek to harmonize its regulations with advanced economies like the United States and the European Union.

c. Recognize labeling of the responsible local supplier as sufficient for consumer protection and post-market surveillance/audit. The draft Cosmetics Act requires the listing of contact information for both manufacturers and importers. This requirement is unique and not aligned with global trends. Other countries require only that the local responsible company’s information be printed on the product labels. Providing the importer’s information should be sufficient for consumer protection, because consumers in Taiwan will only contact the responsible local supplier, not the overseas manufacturer. For post-market surveillance or audit purposes, the manufacturer’s information contained in the PIF should be sufficient.

d. Ensure that the proposed new PIF system is workable and reasonable by only addressing critical regulatory needs to avoid technical barriers to trade. TFDA has provided assurances that it aims to establish a “reasonable” and “workable” PIF guideline, with industry given adequate lead-time for PIF preparation. While we appreciate those assurances, nonetheless still urge TFDA to avoiding creating a unique and complex PIF system that combines elements from the EU and ASEAN together with TFDA’s own requirements. It should be noted that such large economies as the United States and Japan do not utilize PIFs at all. Given the potential complexity of the exercise, Taiwan might inadvertently create technical barriers to trade, leading to trade disputes with its trading partners. To avoid that consequence, the content of the PIF should be streamlined to address only critical regulatory needs.

e. Recognize other countries’ equivalent of the Taiwan Cosmetics GMP. Although a Cosmetics GMP (Good Manufacturing Practice) system is mandatory in the EU and ASEAN, both jurisdictions also accept other countries’ GMP standards. TFDA, however, intends to take the Taiwan standard as the only standard, which will inevitably lead to significant technical barriers to trade. Instead, the Taiwan government should recognize Guidelines for Cosmetics GMP such as those issued by the U.S. Personal Care Products Council (PCPC) and by other health authorities as equivalent to the Taiwan Cosmetics GMP, and also allow companies to self-certify compliance to overseas GMP standards of equivalence as a means of fulfilling the Taiwan GMP requirement.

f. Refrain from creating a unique “Corrective Advertisement” policy. In contrast to the international best practice of promoting advertising self-regulation, the draft Cosmetics Act authorizes health-administration personnel to determine whether an advertisement or claim is “seriously exaggerating or untrue,” including advertising content that is not safety or hygiene related. Violators would be required to broadcast or publish apologies by means of a “Corrective Advertisement.” The Committee was distressed to learn that this “Corrective Advertisement” provision, which was previously removed from the draft legislation in the course of a public hearing.
in 2013, has now been restored. The measure would grant health authorities enormous power, including the ability to damage a company’s reputation and brand equity, extending to areas outside their professional competence and without providing the accused with timely recourse to due process in the judicial system. As this Committee has repeatedly emphasized, we strongly urge the MOHW and TFDA to withdraw this proposal. If the “Corrective Advertisement” provision becomes effective, it could even be viewed as contravening the freedom of speech guaranteed under the national Constitution. As an alternative approach, we suggest that the authorities engage in broad-based discussions to establish advertising guidelines and a system of industry self-regulation – an approach that has proven its effectiveness in many other markets (see Suggestion 2 above).

**g. Treat toothpaste and mouthwash separately from other products under cosmetics regulations.** Toothpaste and mouthwash will be newly added categories of cosmetics after the amended Cosmetics Act is passed. Since the relevant cosmetics regulations were developed without considering the unique characteristics of toothpaste and mouthwash (particularly, the fact that they immediately rinse off after use), the Committee urges TFDA to adopt the following measures to assure a smooth transition and minimize the impact to both industry and consumers.

1). Provide a sufficiently long transition period. A grace period of at least five years is needed for toothpaste and mouthwash manufacturers to prepare to come under the Cosmetics Law. In the meantime, all in-market products should be exempted. Although TFDA has conducted several workshops to communicate with industry, businesses are unable to begin assessing or investing in product labeling/formula changes until the final Cosmetics Act is passed and all relevant implementation regulations are settled. This problem is more acute for multinational companies which source products worldwide and share product labeling/formulations across countries. Especially if the product formulation must be changed, a longer lead time will be needed to complete the product stability test.

2). Harmonize technical requirements and ingredient standards for toothpaste and mouthwash with those of major trading partners. Current cosmetics regulations related to restrictions on ingredients or substances (for example, the cosmetics preservative ingredient list) were established without taking toothpaste and mouthwash into consideration. The Committee urges TFDA to review and make appropriate modifications to the cosmetics preservative ingredient list by accepting the substances allowed by any one of Taiwan’s major trade partners, such as the United States, EU, or Japan, so as to harmonize with international regulations and avoid adopting unique-to-Taiwan standards or restrictions.

**Suggestion 5: Harmonize the regulation of GM food material labeling with that of major trading partners.**

Taiwan has enforced regulations for the mandatory labeling of foods containing genetically modified (GM) materials through an amendment to the FSSA enacted in February 2014. The relevant GM labeling rules were announced in May 2015. Among the key elements: 1) if the level of adventitious GM material exceeds 3%, the entire material shall be regarded as GM and products made from it should be so labeled, and 2) highly refined foods made directly from GM materials (such as soy oil, corn oil, corn syrup, etc.) must be labeled as GM even though the final products do not contain transgenic DNA fragments or transgenic proteins.

Some remaining concerns still need to be highlighted. There is no threshold for GM labeling in finished products, which results in mandatory labeling even for very small quantities of GM ingredients. In addition, Taiwan is among the very few countries with mandatory labeling requirements for highly refined ingredients. Further, anti-GMO activists and some legislators are pushing for a tightening of the labeling regulations by adopting EU standards, which would reduce the adventitious threshold to 0.9% and require mandatory labeling for all highly refined ingredients.

In an era of global trade liberalization, new regulations should follow international best practice, avoiding the creation of trade barriers that could adversely impact Taiwan’s food industry. It is important that Taiwan’s regulation be harmonized with those of its major trading partners. Establishing a more restrictive regulatory environment than its trading partner would narrow the scope of supply from different countries and regions of the world, reduce the variety of food available to Taiwan consumers, and increase food costs.

Before implementing the proposed regulations, the government should undertake a comprehensive impact analysis to understand the likely ramifications for food supply, costs, consumer welfare, and Taiwan’s economic competitiveness and trade relations. As the current GM labeling regulation in Taiwan is one of the most stringent in the world, there is no need to make it any stricter.

**SUSTAINABLE DEVELOPMENT**

As part of the global effort to reduce greenhouse gas emissions, the promotion of renewable energy has become a
critical international strategy. In Taiwan, 98% of the energy supply is imported. Therefore, the development of renewable energy will diversify the energy supply, increasing the proportion of domestic sources in the energy mix. It will also open new business opportunities for local industry. This goal of simultaneously achieving three “wins” – energy security, environmental protection, and economic development – deserves broad support.

As Taiwan has highly favorable conditions for its development, wind power has been designated for priority attention in the renewable energy field. Onshore projects currently under construction, approval, or planning amount to 467.8 MW in installed capacity (equivalent to 230 sets of wind turbines), and future offshore development offers even more potential. This Committee joins the Infrastructure Committee in urging the new administration to streamline the application and approval process for wind-power projects to encourage prospective developers to enter this market and to increase the willingness of financial institutions to provide support.

Another of our suggestions is for the government to provide more incentives for the use of recycled building materials as a way to achieve environmental benefits.

In addition, the Committee notes that since 2010 it has continuously raised the issue of forest conservation and urged the EPA to expand its Green Mark guidelines to recognize virgin-fiber tissue/paper products with global sustainable forest management certifications. The progress has been truly disappointing, however, even as the environmental problem has intensified due to the severe haze-producing forest fires in Southeast Asia. We strongly urge the Environmental Protection Administration (EPA) to speed up adoption of a dual-track forestry approach in its Green Mark system, equally recognizing both virgin-fiber products and recycled-fiber products that are certified by globally accepted standards for responsible forest management, such as that of the Forest Stewardship Council. Such an approach has been widely accepted by developed countries around the world. Taiwan should do the same to disassociate from environmentally harmful deforestation practices and enable its consumers to identify which products are derived from sustainably managed forests.

**Suggestion 1: Scale up and accelerate development of renewable energy in general and offshore wind power in particular.**

As there are few suitable onshore sites available, Taiwan has set an ambitious target for offshore wind development of installation of 4GW in generating capacity by 2030, and it is providing incentives for that development through government grants. Various demonstration projects are currently underway, and their successful execution can be expected to increase interest in the Taiwan market from prospective developers around the world. Other Asian countries also have major plans for offshore wind power, which means that Taiwan will be competing with other markets for support.

The grant scheme involves a subsidy equivalent to US$8 million and interest-free loans covering 50% of the development cost. From the developers’ point of view, however, those conditions are not considered especially attractive compared to other markets. More important for the grant recipients is simply obtaining the right to build the offshore wind farm.

On the financing side, the government needs to provide more direct support from government-owned banks and other financial institutions and foundations. Once the Taiwanese government has taken a greater stake in these projects, international banks will be more willing to participate as well, helping to ensure the viability of the projects.

**Suggestion 2: Encourage greater use of recycled building materials.**

We urge the government to find ways to encourage the increased use of recycled building materials in construction. For public projects, more attractive incentives could be provided than those currently available under the government’s procurement regulations. The current price differential of up to 10% allowed for recycled building materials versus conventional materials, after the passing all the environmental-related tests, has not been effective in increasing the usage of recycled materials. In addition, for public and private construction, the government could consider setting a minimum standard for the percentage of the total building materials that recycled materials are required to meet.

The promotion of a “circular-economy” based on recycling materials is not limited to the United States, Japan, and European countries, but is now spreading to emerging countries such as China. In fact, China has been actively wooing Taiwanese environmental and recycling companies to set up operations across the Strait to assist in addressing their environmental issues. Taiwan should not be left behind in this development of a circular economy, and using more recycled building materials where matured technologies exist in Taiwan would be a good start.

**TAX**

Globalization and China’s rise as the world’s factory have affected Taiwan’s efficiency-driven model of economic growth. The slower economic momentum has widened the income gap, reduced job opportunities, and caused salary levels to stagnate. As the new government seeks ways to
reinvigorate the economy, one of its priorities should be to create a more favorable environment for the attraction and retention of outstanding professional talent, both Taiwanese and foreign. The Tax Committee joins the Human Resources Committee in stressing that a major component of that environment must be creation of a healthy tax policy, especially with regard to individual income tax. As we have done in previous White Papers, the Tax Committee wishes to highlight the need for effective tax reform as a means of ensuring Taiwan’s economic health and competitiveness.

**Suggestion 1: Revisit the current tax policy on foreign business’ drop-shipment transactions in Taiwan.**

Throughout Taiwan’s crucial technology-oriented industries, from semiconductors to computer products, toll and contract manufacturing operations play a significant role. The current tax rules, however, are not favorable to these important economic activities. Income tax exemption is currently granted only to storage and simple processing that are carried out in a free trade zone and when at least 90% of the sales are for export. Only a few types of business can benefit from this incentive. The manufacturing, testing, and assembly activities typically performed by Taiwanese OEMs/ODMs, which usually involve extensive processing, are disregarded. Moreover, Ministry of Finance (MOF) ruling No. 10404572310 in 2015 made clear that such manufacturing, testing, and assembly activities are taxable to the foreign principals. The ruling has caused widespread industry concern, not only for foreign business, but also among Taiwan’s OEMs/ODMs.

The Committee would like to make the following points:

a. Although most of the Taiwanese toll/contract manufacturers are independent from the foreign principals, the MOF ruling treats them as the business agents (BA) of the foreign principals, which imposes a heavy burden on the Taiwanese businesses. In practice, the Taiwanese OEMs/ODMs do not act for or represent foreign companies in sales, but rather only earn processing fees and follow the foreign companies’ instructions to store products and ship them to customers. It is unreasonable for these OEMs/ODMs to bear tax-filing responsibilities for the foreign companies.

b. Under the ruling, foreign principals will be considered as generating Taiwan-sourced income from drop-shipment activities in Taiwan and should file corporate income tax returns and pay taxes in Taiwan. As a result, they need to appoint BAs to comply with these regulations. But due to the resistance from Taiwanese OEMs/ODMs, the foreign principals have difficulty complying with this ruling. Furthermore, the income derived from the manufacturing/processing has already been reported by the Taiwanese OEMs/ODMs. If the foreign principals are also considered subject to Taiwan taxes, the same income may be taxed twice.

As the current tax policy on drop-shipments is contrary to general taxation principles and to the practices of Taiwan’s neighboring countries, the Committee urges the MOF to reconsider its ruling in the interest of both fairness and Taiwan’s economic competitiveness.

**Suggestion 2: Review Taiwan’s tax policies with the aim of creating a favorable and competitive environment for attracting high-caliber professionals.**

2.1 *Reduce the top-tier individual income tax rate and/or expand the individual income tax brackets.*

Taiwan has had relatively high individual income tax rates and condensed tax brackets, leading to a heavy tax burden and challenges in attracting talent. Since the top tier individual income tax rate was raised last year from 40% to 45%, it has become even more difficult for Taiwan to attract and retain high-caliber personnel from abroad, as well as to keep outstanding domestic talent from giving priority to overseas job opportunities. In nearby countries with levels of economic development similar to Taiwan’s, the individual income tax rate is much lower than in Taiwan – for example, 20% in Singapore and 17% in Hong Kong. As a result, both countries are more successful in terms of attracting international talent.

The United States is usually seen as a high-tax country. In the United States, the top tier individual income tax rate is 39.6% for a taxpayer with single filing status having income exceeding US$232,425 (equivalent to NT$7,437,600). In Taiwan, a 40% rate is applied to net income in the bracket starting at NT$4,400,000 and the top-tier tax rate of 45% is applicable to net income exceeding NT$1 million. For an individual with net income of NT$10 million, the effective tax rate would be around 31.95% in Taiwan, compared to an effective rate of about 27.75% in the United States. With this comparatively condensed tax bracket and higher tax burden, it is difficult for Taiwan to attract high-caliber personnel from abroad and retain local talent. The tax policy also contributes to brain drain by encouraging outstanding local talent to pursue working opportunities overseas where they can enjoy a substantially lower tax payment.

The competition among countries to attract the best and brightest is becoming more and more acute. To help ensure that Taiwan’s competitiveness does not fall behind, we encourage the Taiwan government to adjust the individual tax rate and consider expanding the tax bracket.

2.2 *Eliminate the cascade tax (also known as the “gross
up” and “tax on tax”) effect. In 2010, the MOF issued Tax Ruling Tai Tsai Shuei No. 09804119811, stating that individual income tax paid by employers on behalf of foreign-national employees will be treated as the employees’ “salary income” and can be deductible in the employer’s corporate income tax, provided that the arrangement is stipulated in the employment contract. In effect, it means that the individual income taxes paid by the employer in the first year would be added onto the second year’s annual salary to be taxed again, i.e. a tax on a tax. This “gross-up” practice to treat the remuneration received by the expatriates as an after-withholding-tax amount, together with the requirement to treat the individual income tax paid by the employer as the employee’s “salary income” pursuant to the 2010 tax ruling, leads to an extremely high tax burden for multinational companies who bring high-caliber international talent to Taiwan. For a three-year expatriate assignment, for example, the effective individual income tax rate could reach as high as 77%, and the longer the assignment, the higher the tax burden.

The corporate income tax implications are even more onerous when taking into account the corporate income tax implications in cases where expatriates are seconded to Taiwan entities that act as a contract R&D provider and would apply a cost-plus markup on such individual income tax payments for corporate income tax purposes. To attract foreign talent to accept expatriate assignments to Taiwan, it is common practice for employers to provide a tax equalization clause in the secondment agreement to ensure that the foreign talent will not have to bear extra tax costs due to the relocation. Accordingly, the employers agree to pay the expatriate’s individual income tax in the host country. Through this arrangement, the multinational companies are both increasing their commitment to invest in this market and are contributing to the development of a talent base in Taiwan. Under the aforementioned “gross-up” and “tax-on-tax” mechanisms, however, the cascade effect would cause a higher burden each year.

In recent years, expatriate assignments to Taiwan have been decreasing, depriving Taiwan not only of the related tax revenues but also of the knowledge and experience that professional foreign managers and specialists have to offer. Abolishing the gross-up and tax-on-tax requirements and designing a sounder tax policy would create a more encouraging environment for companies to bring in high-caliber overseas talent.

2.3 Implement a more tax-friendly incentive plan to attract high-caliber foreign professionals. Tax incentives are an important means to attract high-level talent from abroad or retain local talent to work in Taiwan. In this regard, Taiwan has provided less favorable conditions than nearby Asian countries such as Korea, Singapore, and even China. For instance, in Korea, foreign technicians receive a 50% tax exemption on their employment income for two years. In addition, foreign employees may elect to apply a flat 18.7% tax rate (without any exemptions, deductions, or credits) on their Korean-sourced employment income for their first five years in Korea. In Singapore, the marginal tax rate for individuals is just 22%, and in China expatriate employees’ compensation in kind (for example, meals, laundry, and children’s school tuition) is non-taxable.

Further, the amount of deductions available to foreign employees in Taiwan is less than in those neighboring countries. For instance, the deduction for school tuition for their children is only NT$25,000 per year, whereas the actual tuition paid to international schools may be as much as NT$500,000 per semester per child. Lastly, the individual income tax rate of 45% is quite high in comparison with Singapore and Korea. The high tax rate, combined with the lack of tax incentives, impedes the attraction and retention of top talent to work in Taiwan, with consequences for Taiwan’s economic growth and industrial development. We urge the government to take these issues into consideration when amending its tax policies so as to create a friendlier and more competitive tax system.

TECHNOLOGY

The Technology Committee continues to focus on the advancement of a strong ecosystem designed to enable the rapid development, deployment, and growth of technologies and innovation in Taiwan in support of Taiwan’s transformation toward becoming a regional technology hub. The regulatory environment and available funding mechanisms are among the key factors in creating a business climate that serves to foster economic growth. In this regard, we would like to recognize the Taiwan government’s continued support for the technology industry by facilitating business development.

In this year’s White Paper, the Committee explores areas in which we see opportunity for further improvement in the business environment. We believe that actively enabling business start-ups, allowing greater flexibility for workers to manage their own time, and re-establishing Taiwan as the leader in IT infrastructure should be priorities for government policy-makers. These issues are expanded on in the suggestions below.

Suggestion 1: Enhance Taiwan’s start-up ecosystem as the key to maintaining its technology leadership.

As consumer spending around the world shifts rapidly
from devices to content and software, it is more necessary than ever for Taiwan to secure its leadership position as a technology hub in the region. Taiwan should continue to focus on allocating resources to create a stimulating business environment for early-stage technology startups, in order to boost the development of diverse, innovative technologies on the island.

In line with the government’s growing recognition of the importance of technology start-ups, a heightened issue on the national agenda is how to plug Taiwan into the world startup ecosystem. The Committee commends the recent efforts by the Ministry of Science and Technology and other government agencies to promote startups, including the creation of various venture capital funds, support to several startup accelerators, and establishment of the Go Incubation Board for Startup and Acceleration Firms (GISA).

While cultivating a local startup community is essential for Taiwan’s potential growth, attracting foreign entrepreneurs to establish their technology startups in Taiwan would accelerate the process, increase the pool of available technologies, and diversify the technology sectors on the island. Foreign startups would contribute to Taiwan’s position as a technology leader in Asia in many ways, including developing local talent and countering brain drain, creating employment opportunities, increasing the chances of finding “the next big thing,” creating bridges to overseas partnerships, and more.

Taiwan’s existing technology infrastructure, engineering talent, solid intellectual property protection, and central location in Asia (including the proximity to China) are some of the reasons why foreign startups choose Taiwan. The Committee offers the following recommendations for how Taiwan could make itself even more attractive to foreign technology startups:

a. Relax the restriction on the types of business entities that may register to conduct business in Taiwan. Under current law, a non-Taiwan business entity may register a Taiwan branch only when the legal structure is similar to that of a Taiwan limited company or a Taiwan company limited by shares. This restriction excludes many business entities that specialize in investment, including general partnerships, limited partnerships, limited liability partnerships, business trusts, statutory trusts, and others. The result is to close off potential opportunities for investment.

b. Clarify the types of rights and restrictions that shareholders may agree on in a company’s articles of incorporation. In the United States and other jurisdictions where technology startups are popular, it is common for shareholders to negotiate their rights among themselves in detail, with different shareholders enjoying different sets of rights depending on when they invested, the price at which they invested, and other factors. Taiwan law does not clearly state how much flexibility shareholders of a Taiwan company have to attach different rights and restrictions to different shares.

c. Relax the revenue requirement imposed on an entity with foreign investment for hiring foreigners as executives. Under the current law and regulations governing the hiring of foreigners, an entity with foreign investment that wishes to hire a foreigner as a manager or executive officer is required (i) to have paid-in capital or operating funds in Taiwan of more than NT$500,000, and (ii) to earn sales revenue of more than NT$3 million a year, have an import/export amount of more than US$500,000, or receive commission of more than US$200,000. Even more severe restrictions apply if a company wants to hire a foreigner as a technical specialist, hire more than one foreign citizen, or renew its foreign citizens’ work permits when they expire. It would be unrealistic to expect a technology startup to achieve any sales revenue in its first few years, as its primary goal is to invest in R&D, which may not bring any return for some years. Yet it is critical for a technology startup to be able to employ, and rely on, foreign professionals’ skills and experiences in their respective practice areas.

d. Relax fixed-term labor contract restrictions. The Labor Standards Law permits an employer and employee to enter into a fixed-term labor contract only under very limited conditions. While intended to protect employees’ rights and benefits, this policy creates hurdles for a technology startup, especially in its early stage when it needs flexibility to adjust the workforce depending on the progress of its R&D development, which is very difficult to predict.

e. Loosen the salary and working experience requirements for foreign white-collar workers. The government requires that a foreigner to be hired in Taiwan should have at least two years of work experience or five years of professional training, and that the salary of the foreign worker cannot be lower than a minimum amount prescribed by the authorities. Such restrictions are unhelpful to technology startups, which require flexibility in hiring foreign talent based on their needs and the progress of R&D development.

f. Ease tax pressures. Companies often face intense scrutiny from the local tax office if they do not show a minimum profit on their tax returns, but the business plan for technology startups is frequently to reach profitability only after a lengthy period of R&D, product development, and market penetration. The absence of profit during the first few years may be completely consistent with management’s long-term objectives for the company, not a sign of tax evasion.

g. Increase access to funding by attracting VCs to Taiwan. Until the dot-com bubble, Taiwan had a thriving venture
capital community. Today, it needs to find ways to encourage foreign VCs to establish operations on the island. Whether foreign or local, VCs are an important pillar for startup operations. Korea has been much more active and successful than Taiwan in building a large corps of venture capitalists.

The Committee urges the government to target the above-mentioned obstacles and implement concrete remedies so as to transform Taiwan into a highly favorable environment for technology startups.

**Suggestion 2: Assess the impact of workforce regulations on the tech sector’s competitiveness and adjust regulations based on industry best practices.**

Agility and speed have been Taiwan’s competitive strongpoints in the global market for decades. But the evolution of the Internet, Cloud Computing, and mobile applications, coupled with the disruptive innovation occurring in business models, has radically changed the operating model for technology companies. The need for diversified and flexible talent has never been so critical, but Taiwan’s current or proposed workforce-related rules, such as the Labor Standards Law and the draft Protection of Dispatched Workers Act and Fixed-Term Labor Contract, severely jeopardize that needed flexibility. These regulations are based on outdated concepts, fail to take into account the operational practices of technology industries, and present a deleterious lose-lose scenario for enterprises and employees.

Taiwan’s tech sector suffers from a shortage of professional talent, both foreign and domestic. The recruitment of foreign talent is hindered by regulations, while domestic talent is discouraged from working in Taiwan due to the small market size, low salaries, and limited opportunity for career growth.

The Committee proposes the following ideas for improving the situation:

1. **Provide the technology sector with more flexible working hours and eliminate attendance records.** The Labor Standards Law requires employers to “prepare and maintain worker attendance records for five years.” This requirement could be valid for traditional labor, such as production-line workers in the manufacturing sector, but it is inappropriate for knowledge workers in technology industries. For example, many software development tools are placed in the “Cloud,” so that R&D activities can take place anytime and anywhere. The office is not the only, or even necessarily the main, place of work. Further, meetings and discussions frequently occur by teleconference or videoconference among customers, suppliers, or colleagues located in several different time zones.

   A result-oriented Management-by-Objective (MBO) approach to performance measurement is commonly adopted in developed economies, where employee self-management, including flexible working time and working location, has become a trend. In the interest of promoting a creative and professional work ethic, enterprises are willing to leave it to employees to decide when, where, and how long to work, as long as their work is completed and completed well. In Taiwan, Ministry of Labor guidelines have accorded some working hour flexibility only to “field workers,” including journalists, workers in electronic communications industries, salespersons, and professional drivers. Although the designation of “field workers” is not suitable to the technology sector, the flexibility provided in the guidelines shows an appreciation that rigid requirements cannot be applied to every industry sector.

2. **Loosen restrictions on fixed-term employment contracts.** Technology evolves rapidly, making the knowledge cycle in the tech sector extremely short. When companies seek growth momentum, talent recruitment often plays a critical role in the search for technological advancement. Due to Taiwan’s limited market size and scarce technological resources, both local and multinational companies in Taiwan need to leverage foreign innovative applications and emerging technologies. The entry barrier of advanced technology is high, by nature. However, current fixed-term employment contract rules stipulate one year as the maximum contract period. Companies may apply for special approval for extensions, but the process is difficult and time-consuming. To fulfill the needs of the tech sector for flexibility in hiring, the Committee suggests lengthening the fixed-term contract period to a maximum of three years from the time the application is approved.

3. **Revise the proposed draft of the Protection of Dispatched Workers Act.** In recent years, the government has sought to spur growth by encouraging innovation among technology companies and the incubation of new startups. For many tech companies, the use of dispatched labor provides a quick and flexible means of adding workers as innovation increases the need for labor. The draft Protection of Dispatched Workers Act caps the employment of dispatch labor at 3% of a company’s total workforce. Micro startups normally cannot afford a large headcount. Although they would benefit from having dispatched workers to handle non-core activities, the small size of their total workforce will not qualify them to hire many such workers, if any. Besides eliminating job opportunities for dispatched workers in emerging startups, the 3% cap forces core employees to handle non-core activities.

In many countries, the percentage of dispatch labor...
that may be hired is not regulated at all. Among our neighboring countries, some have a cap of 10%. Considering that the extremely low percentage proposed in the draft law would negatively impact the technology sector, the Committee suggests that the government review the provisions of the draft, taking into account the nature and needs of individual industry sectors.

Suggestion 3: Expedite the legislative process for the “IT Foundation Law.”

Despite the importance of this function, the government has yet to establish an agency to take charge of integrating national IT development strategies. In contrast, neighboring countries have set up cabinet-level departments to oversee the strategic direction of national IT advancement and support industry development. For instance, South Korea has set up a Ministry of Science, ICT and Future Planning; Singapore has established a Ministry of Communication and Information; and China has formed a Ministry of Industry and Information Technology. In Taiwan, the lack of a designated agency under the Executive Yuan to take charge of information integration is why it is always difficult to implement coordination across different government departments.

Since 1998, the Taiwan government has adopted a policy of IT outsourcing, downsizing IT-related agencies, and reducing manpower across government departments. IT service outsourcing has become a global trend due to the advantages of allowing agencies to focus on their core activities and reducing cost. However, the government has not increased IT manpower and budget over the years to reflect the growing need for IT support. As a result, some agencies have lacked appropriate resources for planning their system requirements, and information officers have been transformed from technical experts into administrative staff specializing only in IT procurement, gradually losing their capability in planning, risk management, and IT security control.

The central government’s information staff currently accounts for only 1.5% of total personnel. In the U.S. government in contrast, the figure has remained at 4.9% despite the trend toward outsourcing and the significant growth in the domestic IT service industry. In terms of spending, IT accounted for 0.84% of total public expenditures in 2011, and slipped year by year to 0.60% in 2015. In contrast, the U.S. federal IT budget has nudged upward from 2001 onward, accounting for 2.17% of the total budget in 2014.

Private-sector IT service providers are also affected by these adverse trends. They face such problems as unclear system requirements specified at the planning stage, unreasonable budget size, frequent requests for changes, and difficulty in communication, leading to project-management hardships and increased costs. This unhealthy environment is one reason why Taiwan’s IT service industry has for years been limited in its development.

To remove the obstacles hindering the growth of Taiwan’s IT industry and regain IT-sector competitiveness, we suggest that the government expedite the legislative process for enacting the draft “IT Foundation Law” in order to establish a cabinet-level organization with dedicated and clearly defined functions for supervising the use of IT within government. We also recommend that the government adjust the ratio of IT budget and staffing in governmental agencies with reference to the practice in major developed economies.

Suggestion 4: Use public-sector data governance to facilitate transition to the cloud.

Wider use of cloud services could help the Taiwan government achieve far greater computing power, greater availability and resilience of data, and improved security, even as IT costs are reduced. Most importantly, scalable, on-demand cloud computing services can help government organizations focus on key public priorities. In addition to cost savings, the cloud contributes to job creation, democratization of computing and social inclusion, and increased agility in the delivery of government services.

Government agencies and ministries have already been working to address concerns about protecting sensitive information and national sovereignty through implementation of data-governance policies. The effort would be enhanced by adopting legislation empowering government agencies to classify data appropriately, then relying on the agencies themselves to adopt robust data classification and governance systems to regulate which government data may not be moved to the cloud and which data can be moved to the cloud with the appropriate security controls.

The data classification taxonomy below is offered as a guideline to help government strike the right balance. The taxonomy recognizes that on-premises or other storage may be required for highly sensitive government data that raises national sovereignty concerns (Level 1), while also identifying cloud services and security controls that are appropriate for other classes of government data, even data that is typically still considered sensitive. No such taxonomy is currently in use in Taiwan to help guide the migration of data to the cloud.

<table>
<thead>
<tr>
<th>Classification</th>
<th>Definition</th>
<th>Examples</th>
<th>Amount of Potential Data</th>
<th>Appropriate Technical Safeguards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 1</td>
<td>Data critical to national and economic security</td>
<td>Extremely sensitive data such as national defense data, actionable intelligence information, and critical economic data</td>
<td>Very small</td>
<td>Storage in government cloud where available; on-premises storage</td>
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Consistent with such a mandate from lawmakers, agencies should defer to the expertise of national security-related information. Not only will classifying data in this manner help government realize savings from storing data in a more efficient manner, it will also increase government’s efficiency and drive economic growth, innovation, and social inclusion.

Suggestion 5: Allow dynamic spectrum access to increase spectrum utilization and efficiency.

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

Dynamic Spectrum Access (DSA) is a policy alternative and technology innovation that allows regulators to put idle spectrum to immediate and valuable use, while preserving flexibility for possible future allocation or other later specific usage. It is a better alternative than “reserving” spectrum for “specific usage in the future,” which implies that the idle spectrum will remain idle until it is re-allocated. The overall objective of DSA is to dramatically increase spectrum utilization and efficiency, transforming spectrum from a scare resource into an abundant one, in turn unleashing innovation and new value creation.

We were encouraged to see that spectrum sharing and unlicensed access were highlighted as global trends in the draft Telecom Act revision that was published by the National Communications Commission (NCC) for public consultation in late 2015. Specifically, Clause 17 of the draft recognizes the need to maximize spectrum utilization via spectrum re-framing, spectrum sharing, dynamic spectrum access, license-exempt open access, and other innovative spectrum-management technologies. We highly commend the NCC’s vision and leadership in recognizing and embracing these global spectrum technology and policy trends.

TVWS regulations are now in place in the United States, Singapore, Canada, and United Kingdom, and dozens of other countries are working on policies and practices to enable access to these TV White Spaces. Thanks to the efforts of the Dynamic Spectrum Access (DSA) Taiwan Pilot Group...
and the support of the NCC and government agencies, Taiwan is among the leading Asian countries pioneering the use of TVWS radios in bridging the digital divide in rural areas, enhancing urban connectivity, as well as exploring usage in IoT and Smart City applications such as Smart Metering, campus security monitoring, etc.

In light of these recent developments, we have updated our specific recommendations as follows:

a. Accelerate the development of a regulatory framework around DSA and unlicensed access to TVWS for local companies to innovate on wireless technologies using unlicensed spectrum resources. Making available more unlicensed spectrum lowers entry barriers and allows small startup companies to pursue innovative solutions without having to incur hefty upfront spectrum licensing fees. Given the transition to Digital TV and the desirable propagation characteristics of the TV-band spectrum (470-790MHz), there is now a prime opportunity to open up the unused TV broadcast channels for unlicensed wireless connectivity services. We encourage the NCC to build on the Telecom Act revision to develop a full TVWS regulation in the next 12 months in order for Taiwan to keep abreast with global leaders such as the United States, Singapore, United Kingdom, and Canada in enabling innovation in under-utilized TV bands.

b. Direct government R&D funds and resources to DSA radio research and pilot deployments. Government R&D agencies such as the Institute for Information Industry (III) and the Industrial Technology Research Institute (ITRI) have already done significant research on white-space-related technologies such as cognitive radio and TVWS databases. These institutes could further build their competency and potentially transfer their research outputs for commercial development by private companies. Further government funding, such as from the Universal Service Obligation (USO) fund, could be directed to allow scaled deployment of these new technologies in pilot projects that address the most pressing needs of society and business, such as bridging the digital divide in rural Taiwan and building Smart City IoT applications in urban areas.

c. Simplify the process of granting trial licenses and supporting funds for industry to conduct more commercial trials to explore applications for such programs as Smart City (for disaster response, for example) and Digital Inclusion (providing connectivity to rural and remote areas). The study the government has been undertaking in Fuxing Township of Taoyuan County has proven that using vacant TV-band channels for broadband access is effective and efficient for connecting remote areas. The current project has focused on proving the concept and the technology. The next step should be to explore business models and scaled deployment with appropriate policy enablement.

d. Encourage greater involvement of Taiwan ICT industry players in completing the value chain and strengthening the DSA ecosystem in Taiwan, in order for Taiwanese companies to gain first-mover advantage in the expanding global market for “Super Wi-Fi” (a term used by the U.S. Federal Communications Commission to describe TVWS radio). This market could represent a new growth segment for Taiwan ICT companies from service providers to makers of chipsets, components, radio systems, and devices. We therefore urge the government to encourage greater participation and collaboration in the DSA/TVWS ecosystem by telecom carriers, ISPs, device manufacturers, component providers, systems integrators, and IC design houses and manufacturers. The existing DSA Pilot Group could serve as a platform to foster development of such a collaborative ecosystem.

TELECOMMUNICATIONS & MEDIA

Following due process and conducting an economic impact analysis are essential elements in the construction of any new law or government policy. Before the draft of a law or policy is announced, a prudent government agency will first complete a careful analysis of the potential impact on all related parties. And it will follow up that announcement by seeking feedback from the public, giving all relevant stakeholders ample time for review and comment. Only then can the agency feel fully confident that the law or policy is practical, coherent, and meets the needs of society while having no unnecessary negative effect on any party.

In the considered opinion of this Committee, the recent draft of the Convergent Law has failed to adhere to the above-mentioned standards, as explained below.

Suggestion: Seek further public comment on the draft Convergent Law.

The NCC initiative to replace the existing Telecommunications Act, Terrestrial Radio and Television Act, Cable Television and Radio Act, and Satellite Broadcasting Act with a “Convergent Law” represents an attempt to achieve significant regulatory reform and should have been cause for commendation.

The so-called “Convergent Law” would actually be made up of five laws: the Telecommunications Infrastructure and Resource Administration Act, the Telecommunications Business Act, the Administrative
Law for Cable and Multi-Channels Platform Service, the Administrative Law for Terrestrial and Channel Providers, and the Electronic Telecommunications and Broadcasting Act. It would replace the previous silo model with one structured horizontally— for example with an infrastructure layer (the draft Telecommunications Infrastructure and Resource Administration Act), operational layer (the draft Telecommunications Business Act and Administrative Law for Cable and Multi-Channels Platform Service), and an application layer (the drafts for the Electronic Telecommunications and Broadcasting Act and the Administrative law for Terrestrial and Channel Providers).

The five draft laws are closely related to one another and should have been reviewed and discussed as a whole. However, the five drafts were not announced as a package but rather one by one, every 12 days during the period from October 16, 2015 to December 14, 2015. Clearly the drafts of certain laws were released while others were still under discussion by the NCC.

Most disappointingly, the NCC provided a very short period for stakeholders’ review and comment. For example, the draft Telecommunications Infrastructure and Resource Administration Act and Telecommunications Business Act were announced on December 14, 2015, with an explanatory meeting with stakeholders held on December 21 and comments due by December 22, which means that only five working days were available to prepare for the meeting and another six working days to provide comments. This schedule was far too rushed for consideration of such important legislation with wide-ranging implications.

Despite the limited time allowed, a number of scholars and stakeholders provided their opinions. But the NCC did not hold any further public meetings for discussion of the comments, and without revising the draft laws in light of the comments submitted, it forwarded the proposed five laws to the Executive Yuan for approval on December 31.

Aside from the lack of due process, the structure of the proposed Convergent Law is problematic as well. In the draft, cable service is defined as “multi-channels platform service,” which is a special telecom service as stated in the draft Administrative Law for Cable and Multi-Channels Platform Service. Telecom service is defined as the service provided by a telecom operator based on a “telecom network.” However, in the draft Telecommunications Infrastructure and Resource Administration Act, the NCC defines “telecom network” from a current telecom perspective, ignoring the difference between a cable network and telecom network. An example of the potential resulting confusion is that the draft Telecommunications Infrastructure and Resource Administration Act requires a “telecom network” to safeguard the privacy of subscribers’ communications—an impossible requirement for cable networks as they do not provide communication service.

Furthermore, the NCC ignores the fact that Over-the-Top (OTT) platforms now provide audio and video services, competing keenly with cable operators. As a result, no regulation of OTT service appears in the draft, creating unfair competition in the audio and video services market.

The shortcomings in the draft law could have been identified and remedied if there had been an adequate consultation period, with genuine attention to public and industry comments, before the drafts were sent to the Executive Yuan. Considering the substantial impact the draft Convergent Law will have on digital convergence and the overall industry environment, we urge the NCC and/or Executive Yuan to engage in additional consultation with all related parties (including other government agencies, scholars, and representatives of the telecommunications and communications industry) and to hold additional public hearings. Most importantly, the NCC and Executive Yuan should carefully review the comments and incorporate all valid suggestions in the draft.

**TRANSPORTATION AND LOGISTICS**

Taiwan has always been considered one of the most significant strategic locations in the region for logistics and international trade. The Committee appreciates the efforts made by the relevant authorities in the past several years to make the regulatory environment in Taiwan more convenient for operations in this industry. At the same time, more can still be done to make the regulatory regime for transportation and logistics more transparent, stable, and predictable. In this regard, we would like to call attention to the following issues of concern to our members.

**Suggestion 1: Establish an effective communication platform to improve transparency and efficiency in customs clearance**

The Customs administration has maintained a Customs Port Trade (CPT) Single Window since 2013 with the objective of accelerating the customs clearance process. Obstacles remain, however, with regard to the clarity of customs regulations and the transparency of the application process.

More communications is needed between the responsible authorities and industry to give business representatives an opportunity to discuss problems they have experienced with customs clearance and to present ideas for making the system more efficient. The need for such communication has grown with the increasing frequency of Internet-based international transactions, and with the large number of agencies engaged in border-control activities; besides Customs, these include the Taiwan Food and Drug Administration, Council of Agriculture, National...
Since the beginning of 2016 Taiwan has seen a sharp drop in international visitors. While the achievement is exciting, facilitation of compliance with the rules. ICP exporters are able to access the BOFT list so as to password-controlled online mechanism by which registered not consulted, we suggest that BOFT provide a convenient readily available to the public. Since the exporter would face the other hand, the list maintained by BOFT itself is not consulted. We understand that over the past year the government has been studying the voluntary self-disclosure legislation in place in Japan, Australia, the UK, and other countries. We hope that this effort will lead to the proposal of concrete legislation in Taiwan in the near future.

A related issue is that under the current SHTC regulatory regime, an exporter recognized by the Bureau of Foreign Trade (BOFT) as having implemented an Internal Control Program (ICP) can be exempted from export permit requirements, but under the condition that the exporter first check that the overseas importer to be dealt with is not named as a party of concern either on international export-control lists or by the competent authority in Taiwan, which is the BOFT.

The international export-control lists referred to by the BOFT include those from the United States, Japan, and Europe, and can easily be found on the BOFT website. On the other hand, the list maintained by BOFT itself is not readily available to the public. Since the exporter would face the legal risk of violating the ICP system if the BOFT list is not consulted, we suggest that BOFT provide a convenient password-controlled online mechanism by which registered ICP exporters are able to access the BOFT list so as to facilitate compliance with the rules.

TRAVEL AND TOURISM

In 2015, Taiwan welcomed more than 10 million international visitors. While the achievement is exciting, since the beginning of 2016 Taiwan has seen a sharp drop in Chinese tourists, which has been a significant contributor to Taiwan’s inbound travel revenues for the past few years. Under this circumstance, it is imperative for Taiwan to diversify its travel promotion strategies to other travel segments, such as MICE (Meetings, Incentive, Conferences, and Exhibitions) and leisure travel from Western countries.

As this Committee has repeatedly pointed out each year in the White Paper, the problem of insufficient manpower in Taiwan’s tourism sector is consistently a top concern for the industry. We are glad to see that some improvement has been made in this regard by actively engaging hospitality professionals and educational institutions in strengthening the development of local talent and by relaxing certain work-permit requirements for foreign professionals in the tourism sector. We encourage the government to continue its efforts to upgrade the level of local talent in the hospitality industry. As part of the effort to attract more international tourists, we also call for more government policy support for international themed-entertainment facilities.

The Committee stands ready to provide support and assistance to the government to help develop solutions to the challenges identified in this paper.

Suggestion 2: Encourage voluntary disclosure of export-control regime violations and make it easier for companies to check on potential importers.

Over the past two years, AmCham Taipei’s Customs & International Trade Committee (now folded into the Transportation and Logistics Committee) urged revision of Chapter 4 of the Foreign Trade Act to reduce criminal penalties for companies that voluntarily disclose violations of export controls on strategic high-tech commodities (SHTC). Such an amendment would provide the exporter of record with an incentive to come forward and cooperate with the authorities. We understand that over the past year the government has been studying the voluntary self-disclosure legislation in place in Japan, Australia, the UK, and other countries. We hope that this effort will lead to the proposal of concrete legislation in Taiwan in the near future.

Suggestion 1: Step up efforts to attract, train, and retain international-standard hospitality professionals.

Taiwanese are acclaimed for their courtesy, warmth, and hospitality, and Taiwan’s memorable service style has impressed many visitors. Members of the travel and tourism industry represented by this Committee greatly appreciate these qualities in their Taiwanese employees, yet we continue to be concerned with the general shortage in this market of world-class hospitality professionals, especially those with management experience and language skills that could help prepare local staff for the international arena.

The Taiwan tourism market has been growing rapidly both in overall volume and in high-value segments such as MICE and Western leisure travelers. As a result, Taiwan needs to raise service levels and management to international standards with the help of more foreign hospitality professionals with the necessary expertise. In addition, to cater to the increasing demand for talented as its tourism volume expands, Taiwan needs to introduce world-class training and educational opportunities in the hospitality industry, possibly through joint ventures between local and foreign hospitality schools and local universities. The presence of internationally recognized hospitality/culinary institutes in Taiwan is essential to provide the young generation with an educational path to career opportunities in the hospitality and tourism-related sectors of the service industry, including retail, transportation, hotels, and restaurants. We encourage the government to foster the establishment of professional training
opportunities in all of these areas.

The Committee specifically recommends the following:

• Build a world-class hospitality training school system in collaboration with the Ministry of Education to attract and retain high-standard hospitality professionals.

• Link the Taiwan hospitality training system to internationally certified institutes and university programs in the hotel and Food & Beverage sectors to provide a high-level of training and education both for new graduates and those contemplating career shifts. Besides attracting more talent to enter Taiwan’s hospitality industry, these international connections would help establish Taiwan as a globally recognized platform for MICE and corporate business events.

Suggestion 2: Devote more effort and resources to expanding Taiwan’s MICE segment.

MICE-related travel is one of the most important segments for inbound tourism for any country, as it brings in larger groups of travelers and generates large amounts of spending. Taiwan’s central geographic location in the Asian region is an advantage for being a MICE destination, although the lack of sizable conference and exhibition facilities and attractive government incentives makes it hard for Taiwan to attract large-scale international MICE events. As a result, Taiwan is lagging behind other Asian destinations, such as South Korea, Thailand, and Hong Kong, when bidding for international MICE events.

Many countries have dedicated convention bureaus to promote and handle MICE, since special channels and expertise are required for cultivating the MICE business. The Committee is pleased that Taiwan has established a dedicated web portal for MICE travel: Meet Taiwan, sponsored by the Bureau of Foreign Trade and implemented by the Taiwan External Trade Development Council (TAITRA). The Meet Taiwan office provides efficient support when it comes to bidding for meetings, conventions, conferences, and other types of events.

However, private-sector companies wishing to attract international meetings and conferences to Taiwan still need to do most of the work themselves. We understand that part of the reason is financial, as TAITRA is given much less budget to support bidding efforts as compared to neighboring competitors like Hong Kong, Japan, Thailand, and Korea. The Committee believes that it is essential to have a dedicated government department equipped with experienced professionals to develop MICE businesses. In addition, international experts in the MICE business should be brought in to provide the department with professional advice and training for further development of the MICE segment. Further, this department should be given the responsibility for external promotion, as well as planning and developing facilities within Taiwan, so as to make Taiwan a competitive destination for the MICE travel segment.

In sum, allocating more resources to the international MICE sector will be a worthwhile investment because of the potential business opportunities this travel segment can bring in.

Suggestion 3: Vigorously promote the development of international-branded themed entertainment to attract more international tourists.

Successful themed entertainment facilities can be one of the most useful tools for attracting international tourists. This approach has been adopted and proven effective in neighboring countries through such examples as Universal Studio Singapore, Ocean Park in Hong Kong, and the Tokyo Disneyland. The Shanghai Disney Resort – due to open in June 2016 - is also expected to be a magnet in attracting a large number of tourists. While Taiwan’s local-branded themed entertainment has been very successful in attracting domestic customers, it has not been very useful for drawing international tourists. Considering the government’s new strategy to diversifying the sources of international tourists so as to reduce reliance on Chinese tourists, it should examine how developing international-branded themed entertainment facilities could help with that objective.

Many international developers of themed entertainment, such as MGM and Paramount, have previously shown interest in Taiwan’s market, although all of them eventually decided to walk away. Our understanding is that the lack of government policy support, anticipated difficulties in acquiring land, and the cumbersome licensing process were the key reasons that deterred them from entering the Taiwan market. If the government wishes to grasp economic opportunities from the current Asian tourism boom, we strongly recommend that it undertake the following initiatives.

a. Assist with land availability. Currently in Taiwan, most land parcels of any significant size are controlled by state-owned companies, such as the Taiwan Sugar Co. Many of these land parcels are idle or are being under-utilized, and are therefore not generating sufficient economic benefits for Taiwan. Policies should be adopted to permit idle land owned by state-owned companies to be leased on a long-term basis for the development of themed entertainment. The lease rate should be set at a reasonable range in order to be competitive.

b. Create a transparent and efficient development and licensing process. Consult with renowned international theme entertainment developers for “lessons learned” in other Asian countries in order to create an efficient process attractive enough to interest top-notch developers.
農化委員會

農化委員會(以下簡稱委員會)首要感謝行政院農委會動植物防疫檢疫局(以下簡稱防檢局)積極地於2015年12月修訂通過農藥管理法第四十五條及第四十六條，對於製造、加工、分裝或輸入及販賣或意圖販賣而陳列、儲藏禁用農藥者，處以明確罰則，以有效嚇阻非法農藥，確保國人健康。

此外，對於行政院農委會農藥毒物試驗所(以下簡稱藥毒所)合理訂定國外田間藥效及殘留試驗報告之一致性之審查標準、廠商所提供之國內外試驗報告，也能多數通過審查，逐漸與國際標準接軌，委員會也藉此機會向藥毒所表示肯定與謝意。

新農藥登記制度邁進第6年，在防檢局及藥毒所的積極改進及輔導下，各廠商也較熟悉此新登記系統。惟自104年起，防檢局實施農藥登記公告須與農藥殘留作物最大殘留安全容許量(MRL)同步化，如此，原本加速縮減的登記流程的德政又回到原點。及須於國內進行的藥效藥害及殘留試驗之設計書審查，審查過程冗長之問題，嚴重影響登記時程，尚有待改善。

而防檢局所建立之農藥田間試驗準則延伸使用範圍之群組化制度，殘留量試驗作物分群表中作物種類，也與衛福部之農作物類農產品之分類表不一致，需進一步研究，使之調合一致。

另外重申為了達到強化環保及食品安全的本意，「對15年以上農藥進行毒性評估」期盼防檢局能儘速針對此「毒性評估」案訂出公平、完善且合理的要件需求及審查規定。

同時原廠登記資料專利保護期過短，致投資登記意願低落。因此委員會茲提出下列建議。

建議一：縮短登記時程
1.1最大殘留安全容許量(MRLs)；目前通過農方諮議會審查至提交到衛福服部食品安全諮議會約需5至6個月，建請縮短衛福部與防檢局間資料溝通整理時程至4個月，讓台灣農民能與進口作物一樣，同步使用最先進的產品。

現行制度防檢局須等衛福局的農藥殘留MRL公告後，方能正式公告登記作物使用方法，致使農方諮議會審查通過之登記案，至少需再耗時6至10個月，方能等到防檢局正式公告，如此原本加速縮減的登記流程的德政又回到原點。雖然同步公告是國際趨勢，但如何縮短時程，發揮防檢局與衛福部之間之協調溝通功能，仍有進步空間值得改善，也可藉此展現行政團隊的行政效率。

1.2試驗設計書；為減輕農藥所作業量並加速設計書審查時程，希望提供“農藥生物測定方法標準”，現行制度因未建立“農藥生物測定準則標準”，常出現試驗設計書審查專家意見歧異，審查過程冗長，效率不佳之現象。建請參考EPPO或中國大陸等國家之“農藥生物測定準則標準”，將台灣的各種主要作物之病、蟲、草害物之測定方法標準化，以範本直接套用為試驗設計書，減輕作業量及提升效率。

1.3農藥殘留量試驗作物分群表請與衛福部“農作物類農產品之分類表”調和。防檢局所建立之農藥田間試驗準則延伸使用範圍之群組化制度，其立意良善，也解決農民少量作物及害物無藥可用之問題，但在藥效試驗作物分群表及殘留量試驗作物分群表中作物種類，常以“科”表示，在公告及標示中難以表達清楚。而防檢局之殘留量試驗作物分群表中作物種類，又與衛福部之農作物類農產品之分類表不一致，此等問題亟需調整一致，使業者及使用者不易有混淆不清之困擾。

建議二：登記15年以上農藥原體及成品均需提供毒理試驗資料
為兼顧食品消費安全，農藥施用者及環境安全，登記超過15年以上農藥原體及成品均應提供毒理試驗資料，以確保這類產品的性安全。因為不同的產品可能有不同的製程及配方，故此辦法應適用於原始登記產品及所有俗名藥產品。

建議三：資料保護期專利由8年延長至10年
配合智慧財產局將專利由18年延長至20年，及現行農藥登記制度所花費之時間冗長與高成本，故建議資料保護期延長為10年較為合理，以維公平正義。

綜上所述，委員會衷心期盼有關主管機關能重新審視，如何縮短登記時程及制定合理審查標準，以協助解決政府執行機關、廠商及使用者共同面臨的難題，進一步強化環保及食品安全的維護，確保國人健康。

資產管理委員會

本委員會注意到金融監督管理委員會(下稱「金管會」)在去年進行一些重要的政策變革，旨在為資產管理業建立一個更具法規彈性之環境。該等變革包括接軌投信基金與國外對於高收益債券之定義，允許在地從業人員擔任區域職位、增加投資基金投資144A有價證券之比例，以及開放投資基金返還經理費予全權委託帳戶(「全委帳戶」)等。這些政策改革符合本委員會的期待，且最終能惠及投資人，我們期盼看到更多政策之改革，並鼓勵金管會進一步進行法規鬆綁，以增加台灣資產管理產業的競爭優勢，並拓展台灣在亞洲地區的能見度。

此外，本委員會亦感謝金管會對於2015年白皮書建言之回應。本委員會尤其感謝金管會與美國證券交易委員會進行協調溝通所付出之時間與努力，其促成我國投資基金得就投資管理業務複委託由美國機構辦理。再者，本委員會亦感謝金管會與中央銀行之努力，而允許外幣計價「全委帳戶」投資台幣計價投資基金之外幣級別。

本委員會期待與金管會合作，帶動境內基金業務並強化境外本地人才投入境外產業。本委員會亦衷心支持金管會透過增加境內基金之投資配額、署理方式及投資工具之投資方式，及開放投資基金投資台灣投資信託事業所發行之外幣計價投資信託基金等，在資產管理產業建立更良好的規管架構。

此外，本委員會注意到香港與中國自去年7月生效之基金互惠機制，其為香港資產管理業帶來龐大成長機會。有鑑於亞洲區域整合之趨勢，以及先進者優勢之效益，本委員會強烈鼓勵金管會設立境內基金與境外基金之互惠機制，以拓展台灣投資信託市場。

建議一：持續開放境內基金與投資型保單全委帳戶相關法規限制
1.1開放得複委任第三人處理非核心之資產管理業務：現金部位管理主要為辦理有價證券交割及申贖需求，與海外投資之例行性換匯同屬非核心之資產管理業務，惟依照現行規定仍應由基金經理人負責，另依據金管證四字第0960013097號令，證券投資信託事業(下稱「投信事業」)運用基金資產，得將基金之外匯兌換交易及匯率避險管理業務複委任第三人(下稱「受託管理機構」)，惟全權委託投資帳戶未能適用此項複委任規定。

為使基金經理人專注於有價證券之投資分析與資產配置等核心業務，並藉由受託管理機構之專業化集中管理與規模經濟，達到降低交易成本與作業風險之效益，建議開放投資信託基金得就投資管理業務複委任第三人，並放寬得將全權委託投資帳戶之外匯兌換

2016 TAIWAN WHITE PAPER • JUNE 2016
交易及匯率避險管理業務複委任第三人辦理。
此外，建議可考慮開放匯率避險管理業務複委任第三人之限制，以進一步提升受託管理機構之操作彈性和效率，例如：得藉由購入多頭部位之遠期外幣合約以抵銷原先空頭部位之避險效果，開放涉及新台幣之無本金交割遠期外匯交易與匯率交換合約等。

1.2 基金類別分類基準及投資限制放寬：
延續2015年白皮書建言，本委員會建議採國際趨勢，開放多元資產類型基金，提高投資組合操作彈性以嘉惠台灣投資人，健全國內資產管理業務發展。雖主管機關回覆於現行平衡型基金架構下，投資人業已可募集發行多元資產類型基金，或經由申請特殊型基金方式募集多元資產類型基金，然於現行平衡型基金架構仍對不同投資標的比重有一定程度之限制，其所能使用之投資工具亦多有限制，並未能開放國際多資產資產彈性配置、靈活操作等特性。2016/3/31金管會表示目前投資信託公會仍在研議國際多元資產類型基金發展。近年來，國際資產管理的新趨勢是為客戶不同投資目標設定策略，因此配置上必須靈活運用各項資產及動態調整，與傳統為追求超越大盤目標，而依參考指標（Benchmark）配置投資標的策略不同。近年國際多元資產類型基金規模成長力道強勁，為發展國內資產管理業務，建議參採國際趨勢，開放多元資產類型基金，並配合其靈活操作特性，例如：得藉由購入多頭部位之遠期外匯合約以抵銷原有空頭部位之避險效果、開放涉及新台幣之無本金交割遠期外匯交易與匯率交換合約等。

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1.2.1 基金類別分類基準及投資限制放寬：

建議二：推動以「基金資產規模」（AUM-based）作為銷售機構之銷售獎勵金計算基礎
包括英國、澳洲、加拿大及亞洲許多國家主管機關在內，近年監理重點之一，即在尋求適當之政策藉以規範基金銷售所產生之銷售佣金及獎勵。一般而言，所採行之原則包括明定銷售報酬之揭露義務、禁止銷售機構/理財顧問公司向基金公司收取佣金(改向其投資人收取一定之費用)、研擬第一年給付銷售機構佣金上限之可行性，以及禁止基金公司對銷售機構給付以銷售額(fee-based)為計算基礎之銷售獎勵金。然而，為避免銷售人員為賺取銷售佣金而勉強勸誘投資人從事頻繁交易之情形，如可改採「基金資產規模」（AUM-based）作為計算基礎，則可預防基金銷售佣金給付。收取銷售獎勵金之潛藏風險即為利益衝突：僅管銷售通路負有注意義務提供最適合客戶之產品，但銷售通路亦有支付較高銷售獎勵金之產品銷售予客戶之財務誘因。就臺灣資產管理業之現況，目前所採行之銷售額(fee-based)作為計算基礎之銷售獎勵金制度，即有可能使銷售機構之銷售人員傾向於鼓勵投資人頻繁從事基金交易，一方面除賺取基金交易手續費外，亦同時賺取銷售佣金。此外，實務上亦時有所聞某基金之資產規模在一個月內大幅增加，且申購之來源為特定銷售通路，但下一個月，該基金所增加之資產規模又發生大幅贖回之情形，且贖回之來源亦為該特定銷售通路。對於資產管理業而言，基金規模大幅變動，除了使經理人於進行投資決策時面臨挑戰外，過度的頻繁交易更與共同基金應長期投資之精神背道而馳；對於投資人而言，過度的頻繁交易所造成額外之交易成本，不僅對其形成不公平之負擔，更將稀釋其投資成果。為避免上述按照「銷售額」作為銷售獎勵金計算結構所可能導致之風險及不利益，官方機構已考量將銷售獎勵金之計算基礎，由目前之「銷售額」改為一定期間之平均「基金資產規模」（例如六個月）。本委員會認為此等改變，不僅有助基金資產規模提升，降低資產管理業之銷售成本；對於投資人而言，更可避免因頻繁申購或贖回基金所導致之機關費及手續費成本侵蝕其投資報酬。

建議三：儘速落實勞工退休金之自選方案政策
根據目前之勞工退休計劃，所有勞工都適用相同的投資組合及收益模式。但其未有任何基於個人實際需求和風險狀況的客製化機會，使勞工可選擇積極投資以為他們的退休收入獲得更衍生性金融商品之使用可為投資基金之投資組合帶來許多好處。然而在臺灣，組合型投資基金被限制僅能為避險目的從事衍生性金融商品交易，導致投資效率不足。事實上，組合型投資基金與其他類型投資基金並無太大顯著之不同，因為他們都面臨著各式各樣的投資風險和機會。但有同樣從事衍生性金融商品交易的需求，如盧森堡、新加坡和韓國等國家，對於衍生性金融商品交易之監管，並不會區分不同類型的基金。此外投資限制亦可能造成產品創新的障礙，因此，本委員會認為，允許組合型投資基金得為避險目的之投資，將可透過提供更多的投資選擇而使得投資人最終獲得利益。

1.2.1 基金類別分類基準及投資限制放寬：

1.2.2 基金類別分類基準及投資限制放寬：
根據目前的勞工退休計劃，所有勞工都適用相同的投資組合及收益模式。但其未有任何基於個人實際需求和風險狀況的客製化機會，使勞工可選擇積極投資以為他們的退休收入獲得更衍生性金融商品之使用可為投資基金之投資組合帶來許多好處。然而在臺灣，組合型投資基金被限制僅能為避險目的從事衍生性金融商品交易，導致投資效率不足。事實上，組合型投資基金與其他類型投資基金並無太大顯著之不同，因為他們都面臨著各式各樣的投資風險和機會。但有同樣從事衍生性金融商品交易的需求，如盧森堡、新加坡和韓國等國家，對於衍生性金融商品交易之監管，並不會區分不同類型的基金。此外投資限制亦可能造成產品創新的障礙，因此，本委員會認為，允許組合型投資基金得為避險目的之投資，將可透過提供更多的投資選擇而使得投資人最終獲得利益。

建議二：推動以「基金資產規模」（AUM-based）作為銷售機構之銷售獎勵金計算基礎
包括英國、澳洲、加拿大及亞洲許多國家主管機關在內，近年監理重點之一，即在尋求適當之政策藉以規範基金銷售所產生之銷售佣金及獎勵。一般而言，所採行之原則包括明定銷售報酬之揭露義務、禁止銷售機構/理財顧問公司向基金公司收取佣金(改向其投資人收取一定之費用)、研擬第一年給付銷售機構佣金上限之可行性，以及禁止基金公司對銷售機構給付以銷售額(fee-based)為計算基礎之銷售獎勵金。然而，為避免銷售人員為賺取銷售佣金而勉強勸誘投資人從事頻繁交易之情形，如可改採「基金資產規模」（AUM-based）作為計算基礎，則可預防基金銷售佣金給付。收取銷售獎勵金之潛藏風險即為利益衝突：僅管銷售通路負有注意義務提供最適合客戶之產品，但銷售通路亦有支付較高銷售獎勵金之產品銷售予客戶之財務誘因。就臺灣資產管理業之現況，目前所採行之銷售額(fee-based)作為計算基礎之銷售獎勵金制度，即有可能使銷售機構之銷售人員傾向於鼓勵投資人頻繁從事基金交易，一方面除賺取基金交易手續費外，亦同時賺取銷售佣金。此外，實務上亦時有所聞某基金之資產規模在一個月內大幅增加，且申購之來源為特定銷售通路，但下一個月，該基金所增加之資產規模又發生大幅贖回之情形，且贖回之來源亦為該特定銷售通路。對於資產管理業而言，基金規模大幅變動，除了使經理人於進行投資決策時面臨挑戰外，過度的頻繁交易更與共同基金應長期投資之精神背道而馳；對於投資人而言，過度的頻繁交易所造成額外之交易成本，不僅對其形成不公平之負擔，更將稀釋其投資成果。為避免上述按照「銷售額」作為銷售獎勵金計算結構所可能導致之風險及不利益，官方機構已考量將銷售獎勵金之計算基礎，由目前之「銷售額」改為一定期間之平均「基金資產規模」（例如六個月）。本委員會認為此等改變，不僅有助基金資產規模提升，降低資產管理業之銷售成本；對於投資人而言，更可避免因頻繁申購或贖回基金所導致之機關費及手續費成本侵蝕其投資報酬。

建議三：儘速落實勞工退休金之自選方案政策
根據目前的勞工退休計劃，所有勞工都適用相同的投資組合及收益模式。但其未有任何基於個人實際需求和風險狀況的客製化機會，使勞工可選擇積極投資以為他們的退休收入獲得更
高報酬，或選擇保守投資以減少風險。目前的退休金計劃並未考慮到可能導致個人選擇不同類型投資計劃的各種因素，諸如勞工的提撥數額、退休的年齡、風險承受能力和偏好的投資管理工具。

這樣一來，勞工將喪失掌控他們的投資風險和報酬的權力，而這與「確定提撥制」計劃的宗旨並不一致。因此，本委員會敦促金管會與勞工退休基金委員會和勞動部共同努力，將目前的退休計劃制度調整為「確定提撥制自選方案」，類似於美國（401K）、澳大利亞（退休金）、香港（MPF）和新加坡（CPF）等已開發經濟體所實行之計劃方案。

勞工將依照自己的個人需求而選擇退休計劃，無論選擇現行退休金計畫，由政府管理且具備最低保證收益，或者選擇通過自選方案來選擇自己的風險承受度挑選合適的投資標的。考虑到持續的低利率環境和勞工對於不同退休計劃之需求，本委員會強烈建議政府盡快落實「確定提撥制自選方案」計劃。

### 銀行業委員會

本委員會欣見政府鬆綁法規以改善銀行業環境，並肯定金管會之金融業進口替代方案，將台灣之競爭力提升至國際水準。金管會制定之「代理買賣外國債券」及「衍生性商品資訊諮詢服務」為台灣銀行業開創了莫大的商機。身為台灣金融業界盡責的成員，本委員會將持續致力於銀行業之永續發展，並協助打造台灣成為亞洲重要的金融市場。

今年度所提出的四項議題，本委員會相信皆能於2016年獲得進展。展望金管會就擴展金融市場及增加就業機會之目標，本委員會認為主管機關應可考量進一步鬆綁放寬提供予各類型投資人之產品範疇，以期能將商機留在台灣，提升台灣在區域中的競爭力。

#### 舉例一：持續放寬境外商品發展與銷售的機會

台灣政府近年來已採取許多正面措施，放開金融機構得提供之金融商品範圍，以配合提升台灣市場與國際接軌。業界期待為促進市場發展，當可放寬更多類型的金融商品，以滿足差異化的風險報酬需求。

本委員會提出以下數點建議以協助開放境外商品:

1. **調降境外結構型商品發行人之信用評等**
   - 自2011年後，由於法規針對發行人信用評等的限制，使能在境外市場放發之商品發行人相對減少，市場幾乎呈現停滯狀態。故金管會曾於2014年調降相關發行人信用評等至S&P A+ (或 Fitch A+、或Moody’s A1)，然由於臨近地區之境外結構型商品發行人信用評等要求相對較台灣為低(如香港要求僅為A-)，使得臺灣投資人如有投資需求即需向國外市場尋求投資機會。為了能提升臺灣市場在亞洲地區甚至國際上的競爭力，商品種類多樣化實為其要件之一。故本委員會建議，為了能讓更多的發行人得參與臺灣境外結構型商品市場並供更多元的金融商品予臺灣投資人，針對前述商品之發行人信用評等應至少比照鄰近地區(如香港)之評等調降至A-。
   - 目前在臺發行結構型商品者，以國際性之大型銀行為主。自金融海嘯後，相關監理機構除要求國際性之大型銀行提高資本以提升投資人保障外，並對該等大型銀行實施高強度之金融監理。已知的世界趨勢為發行人信用評等已不再是發行人財務狀況之唯一參考依據。為滿足投資人之需求，本委員會建議相關主管機關應考量進一步鬆綁放寬提供予各類型投資人之信用評等，以期能將商機留在台灣，提升台灣在區域中的競爭力。

2. **將中國大陸關聯之債券納入代理買賣外國債券業務可承作之商品範圍**
   - 隨著巴賽爾公約資本計算的規定，全球銀行業者對於承擔風險之活動均轉趨謹慎，以期將資本富用於高利率之業務。為確保臺灣銀行業能於國際市場競爭，本委員會現建議相關主管機關應考慮將中國大陸債券納入代理買賣外國債券業務可承作之商品範圍，使臺灣銀行業能於國際市場競爭。

3. **開放代理買賣外國債券業務得從事外國債券附買回及附賣回交易**
   - 自2014年1月金管會開放兼營證券業務之銀行得辦理代理買賣外國債券業務起，已有數家銀行獲准辦理此項業務。然而，近日始從金管會得知，外國債券附買回及附賣回交易非屬代理買賣外國債券業務之範疇，惟此將造成專業機構投資人無法利用此等交易，以期能將商機留在台灣，提升台灣在區域中的競爭力。

4. **將「代理買賣外國債券」及「提供境外衍生性商品資訊及諮詢服務」之對象擴及於「高淨值投資法人」**
   - 為達金融進口替代方案之目標，金管會前於2014年鬆綁相關法規開放銀行業提供境外衍生性商品資訊及諮詢服務。然而，該兩種業務之服務對象均限於銀行業、保
險業和證券等所謂「專業機構投資人」。與之相比，金管會在2016年曾修正「境外結構型商品管理規則」及「銀行辦理衍生性金融商品業務內部作業制度及程序管理辦法」，新增「高淨值投資法人」之類別，俾使符合四項法規資格之法人客戶得申請成為高淨值投資法人。一旦成為高淨值投資法人，則承作衍生性商品及境外結構型商品時之大部分法規要求均可放寬，使得高淨值投資法人與專業機構投資人之待遇幾乎無異。

同理，將代理買賣外國債券及提供境外衍生性金融商品資訊及諮詢服務之對象擴及於高淨值投資法人實屬適當。為進一步服務大型企業客戶之需求並加強金融監理，建議主管機關在既有「銀行提供境外衍生性金融商品資訊及諮詢服務應注意事項」之服務對象進一步開放高淨值投資法人。此項鬆綁不僅得以符合台灣資本市場於亞太地區的競爭力，亦可使現行高淨值投資法人適用與專業機構投資人相同標準之分級制度。

此外，目前法規中對高淨值投資法人之定義，其中之一為該法人之淨資產需達新台幣二百億元以上，茲建議開放集團內之子公司得以母公司之淨資產為標準；此乃因國內多數電子、科技公司因集團策略考量，由集團內子公司作為接單或生產之單位，其產生之匯兌風險亦由該子公司直接避險，然其財務專責人員皆由母公司財務中心兼任並統一權責，故此專業度應以其母公司作為衡量指標。如此，不僅創造金融機構國內就業機會，將人才留在台灣，更能提升台灣資本市場於亞太地區的競爭力，且保障國內客戶之投資相關權益，在發展成亞太金融中心之營運及銷售模式下，對促進交易時效及降低交易成本等方面，皆大有裨益。

建議四：開放「代理買賣外國債券」及「提供境外衍生性金融商品資訊及諮詢服務」兩項業務得共用人員及場所

金管會開放「代理買賣外國債券」與「提供境外衍生性金融商品資訊及諮詢服務」兩項業務，已為國內業者帶來顯著的商業機會。然而，面對金融無國界的競爭，為確保台灣金融業與緊鄰兩個重量級金融中心香港及新加坡的競合中保有競爭力，主管機關應持續鬆綁法令，協助國內金融業者競逐屬於台灣本地專業機構投資人的交易回流。據此，本委員會建議金管會開放上述兩項業務得共用人員及場所。
銀行業務人員如得同時提供外國債券及境外衍生性商品相關之資訊或諮詢服務，可增強國內金融人才多元化之專業並提供更佳的服務予客戶，代理買賣外國債券。與銀行提供境外衍生性金融商品資訊諮詢服務，則啟用背景一致。服務對象為同一專業機構投資人。銀行業務人員如得同時提供此二業務之服務，客戶僅需聯繫單一窗口即可進行不同商品之交易，交易效率及服務品質均有效提升。渠等業務人員於執業前需符合相關業務人員之資格條件，而執業後尚需持續進行證券業務人員及衍生性商品業務人員之在職訓練，如此應足可確保業務人員具備此二不同業別所需之金融商品專業。

資本市場委員會

資本市場委員會感激主管機關對強化臺灣之資本市場所作的持續努力。我們特別感謝主管機關就我們所提出的建議所推動之各項措施以促進市場發展，例如開放有價證券借貸及日日沖銷之標的，實施興櫃股票T+2日款券同日交割制度等。

我們亦歡迎主管機關就擴大市場動能所推動之其他各項措施。由於全球資本市場具有高度互聯性且相互競爭成長與發展，臺灣的資本市場需要持續與國際接軌，強化資本市場之國際競爭力，以吸引及保留資金投資和人才，特別是當政府極力推動金融替代方案及證券市場之發展。因此，我們持續就有助於臺灣市場發展之議題提出建議，以創造有益於國內外參與者的資本市場。一如既往，本委員會始終願意隨時協助臺灣政府發展透明、公平及具競爭力的資本市場並促進金融業之發展。

建議一：支持國際證券業務分公司(OSU)之成長

1.1 放寬國際證券業務分公司(OSU)設立標準

金融監督管理委員會於103年2月開放國際證券業務分公司(OSU)設立，外國投資人可以透過OSU平台購買境外金融商品。截至105年2月底，約有17家證券商設立OSU;全數為國內證券商。外國證券商未參與之主要因素係OSU設立標準為申請證券商在臺淨值須達新台幣40億元或100億元。參考銀行業國際金融業務(OBU)經濟規模，從中央銀行105年1月29號發布新聞稿所示，已營運之OBU共有62家，其中25家為外商銀行，佔全體OBU資產總額比例14%且OBU資產總額高達247億美元。由於OBU未設有嚴格淨值規定，外商銀行能積極參與OBU市場，國際金融業務得以蓬勃發展。因此，本委員會建議1)降低申請OSU證券商在台淨值之要求;或2)外國證券商得以總/母公司之淨值為申請標準;或以總/母公司出具無條件且不可撤銷之保證以擔保其債務來強化對外國證券商財務要求。

放寬OSU設立申請標準，使外國證券商參與得以引進多樣化的商品平台，增加整體OSU之交易量及提升獲利水準，除可經由外國證券商之參與助益台灣之金融產業外，同時吸引更多國際金融人才加入，此類業務人員於執業時需符合相關業務人員之資格條件，而執業後尚需持續進行證券業務人員及衍生性商品業務人員之在職訓練，故對外國證券商財務要求亦應足可確保業務人員具備此二不同業別所需之金融商品專業。

1.2 放寬目前僅限非居住民得申購OSU平台上之未核備基金之規定

依金管會函釋，OSU僅得對境內客戶(僅限特定專業投資人)銷售經主管機關核備之基金及金融商品。OSU境內客戶，屬具有相當財力及金融專業知識之客戶，對於未核備基金之風險有獨立評估，建議主管機關放寬OSU對境內專業投資人提供金融商品服務之範圍，放寬後可提升臺灣市場競爭力，且進一步將國內專業投資人之資金留在台灣。

建議二：檢視並放寬證券市場規定，擴大市場參與以持續支持市場成長

2.1 放寬有價證券借貸之限制

有價證券借貸係國際市場上常見之交易策略，國際間之金融監理單位亦普遍認為借貸金融可增加價格發現功能及提高交易之流動性，本委員會感謝金融监督管理委員會之努力，與臺灣證券交易所於今年放寬有價證券借貸之標的及成交量。我們亦建議放寬以下臺灣有價證券借貸市場之規定，與國際慣例接軌，擴大市場參與及市場流動性。

(1) 現行每日盤中借券賣出之委託數量限制目前為0，惟許多外國機構投資人在臺灣投資多年，其投資本金多已匯出，但保留了大量之盈餘繼續投資，其在台投資足以償還借券之金額，另許多外國機構投資人亦許其借券交易提存了充足之國內擔保品，因此，我們建議主管機關應允許至有價證券借貸市場之匯出，這項改變將能提升臺灣整體市場之流動性。

2.2 建議將已上市(櫃)公司之可轉換公司債排除於投資總額度上限不得超過外資法人投資匯入資金之百分之三十之規定

自2015年4月22日起，除了公債、貨幣市場工具、貨幣市場基金之總額度，合計從事店頭股權衍生性商品、店頭新臺幣利率衍生性商品、店頭結構型商品及轉換公司債資產交換選擇權端交易所支付之新臺幣權利金及交換結算差價淨支付金額外，金管會將公司債及金融債券納入不得占外資法人投資匯入資金之百分之三十上限之規定。本委員會認為前述限制是為了鼓勵外資法人多投資台灣股票市場而非固定收益市場，此規範也有助於防止外匯市場可能出現之投機行為。然而，由於可轉換公司債也被視為於公司債的一種，而被列於百分之三十上限之規範內，可轉換公司債僅在集中市場上掛牌，其交易及交割方式與股票相同，且其本質相較於一般公司債較低，價格走勢都與股票有較大連動性，而非屬固定收益之性質。因此，本委員會建議將已上市(櫃)公司之可轉換公司債排除於投資總額度上限不得超過外資法人投資匯入資金之百分之三十之規定，這項改變將能提升臺灣資本市場之流動性。

2.3 開放表彰台灣上市(櫃)公司股票之非參與型美國存託憑證

自金管會開放台灣上市(櫃)公司得「參與」設立一級美國存託憑證已逾一年，然而至今尚未有台灣上市(櫃)公司之非參與型美國存託憑證，原因如下：1)97間有資格且被認可的公司，其外資法人持股率已達百分之四十到百分之七十不等; 2)上市公司之美國存託憑證在美國證券市場之價值通常與台灣市場價值無大分別。
大公司所設立參與型一級美國存託憑證的公司資格至不在指數內之中小型企業等。

截至2015年底，亞太區已有835例非參與型一級美國存託憑證，其在全球1,628個發行例中占比超過50%。國家如日本(於亞洲非參與型一級美國存託憑證中占比28.5%)、中國(16.3%)及香港(15.0%)皆主宰了非參與型存託憑證的成長。此外，如韓國及印度等企業也在進行非參與型一級美國存託憑證的修法，以應付發行者參與市場的需求。而在新加坡，菲律賓、泰國及印尼等國家，非參與型一級美國存託憑證亦已開放且非常成熟，對台灣而言，市場能夠受益於原本無法直接投資台灣股市的海外投資者之動能。

非參與型一級美國存託憑證可能帶來的另一個好處是台灣的上市(櫃)公司可藉由在美國店頭市場交易及與投資人互動之中累積足夠的經驗以俾日後提升非參與型存託憑證至不在指數內之中小型企業之認定存在不確定性，導致該等外國發行人躊躇不前。

3.3.放寬台灣合格境內機構投資人(QDII)來臺投資限制

大陸外管局於今年二月間大幅放寬合格境外機構投資者(QDII)投資中國的限制，如單一合格境外機構投資總額可達500億美元，對於QDII投資本金不再設置匯入期限限制等，均適用於台灣之外匯投資申請者。然目前國內法規對單一大陸合格境外機構投資人(QDII)來台投資總額僅限1億美元，所以QDII來台投資額度僅限1億美元。然於取得額度一個月內完成資金匯入，匯出資金後六個月內若未再匯入則額度將自動撤銷。

QDII不僅被中國金融主管機關嚴格控制，且其投資組合也由基金經理人管理。此現行法規已對QDII在某些受限行業的持股比例設有限額管制。本委員會故建議開放投資額度之上限並取消在取得額度之規定。此舉將有助於吸引更多QDII機構投資台灣之股票市場，強化海峽兩岸資本市場的互動及業務發展，及增加人民幣相關的外匯/避險產品在台灣金融市場之成長。

建議四：促進市場效率及競爭力

4.1.開放證券商得指派委外作業機構

為吸引及保留國際證券商及其人才，台灣證券市場已開始採用新的結算及清算模式，包括使用「第三方結算服務」(Third Party Clearing)及/或「帳戶代理人」(Account Operator, 提供服務之廠商簡稱為AO代理機構)，以給予證券商更多作業彈性及選擇。

本委員會認為台灣市場目前的法規架構下，尚難在短期內採取第三方結算制度，因此我們建議標準機構先開放證券商得將後勤作業如款券交易、保管、股務服務、對帳、申報及發送對帳單等作業委由AO代理機構處理，其對於市場之益處如下：

- 提供證券商更有彈性的成本結構，將變動成本取代固定成本。在帳戶代理人模式下，交割費用主要係以成交筆數計算，交易量上升時增加，交易量及收入減少則按照降低，換言之，當業績及收入減少使得毛利降低時，證券商能藉由帳戶代理人模式以減少固定成本並降低損失。因此證券商能維持一定的營業毛利。另外，券商能夠將資源集中在提升證券商本身的優勢及特殊的專業領域，如提供研究報告、自營、經紀與交易下單，這些專業領域的精進將吸引更多投資者及人才進入台灣市場。

- 提升資金流動性及調度。證券商可利用其AO代理機構於交易日或交易日隔天先將交割款準備好之狀況。
舉可促進作業及市場交割之效率。AO代理機構一般均為大型銀行或券商，以全球作業平臺支援並由本地分支機構提供服務，可應付突發交易量之暴增並持續提供交易量長期成長所需之資源。

AO代理機構將成為證券商除了傳統後台作業單位外的另一種選擇。除了在經營模式上有較多的彈性外，也能因應公司管理需求之改變進而選擇更為適合的經營方式。因此，將使台灣的法規及市場架構與其他市場相較下保持競爭力。

4.2 推動外資在台扣繳憑單電子化
本委員會感謝主管機關正研議推動外資在台扣繳憑單電子化，並開放外資指派之保管銀行及/或登記之稅務代理人得採網路線上查詢其稅務資料。目前外資在台之扣繳憑單仍以紙本發放，消耗大量之紙張，且外資之稅務代理人及保管銀行需投注大量時間及精力於紙本憑單之核對、保管及查核，此亦影響外資盈餘交割之作業時程。藉由扣繳憑單電子化能縮短盈餘查核所需時間，並降低市場發行公司及股務代理機構之作業成本，進而增強台灣市場之效率及競爭力。除此之外，本項發展也能因減少大量紙張使用而盡到環保之責。

4.3 與國際市場接軌，取消星期六證券期貨市場交易以減低交割風險
由於台灣主管機關因應重要節日連假政策，公告星期六補行上班補償連續假日之休假，台灣證券及期貨交易市場亦遵循此例。然而星期六交易增加了外國機構投資人、證券商及金融機構之作業風險及成本；星期六前之星期四及星期五交易須經由特殊安排以完成交割，無論在客戶聯繫、交易確認或資金籌措、換匯安排上，均有極大之困難度，且現行國際貨幣及外匯市場星期六均非營業日，可能造成外匯款項未能及時匯入並轉換成新台幣交割，增加外資違約或遲延交割風險。

綜觀國際金融市場未見週末交易，大陸因特殊狀況可能於星期六、日補上班；然考量現今全球金融市場相互影響，其星期六、日之證券及期貨市場亦均休市。台灣在主管機關及業界努力強化資本市場效率同時，星期六之非常規交易一般成交量不高且與國際市場慣例不一致，為國際投資機構視為市場障礙之一。為降低國內金融機構交割作業風險並同步與國際市場接軌，本委員會建議取消星期六證券及期貨市場交易以利資本市場發展。

建議一：改善化學物質資訊揭露的商業機密保護
1.1 化學物質在安全資料表上的資訊揭露
GHS化學品全球調和制度第四階段公告，已於2016年1月1日全面實施，而有關在物質安全資料表(SDS, Safety Data Sheet)上面的成份，若屬於健康危害部分，在2017年1月1日起則須全面揭露。此揭露要求，可能導致過多不必要之化學品揭露，也與其他國家制度相去甚遠。SDS為了保護勞工安全，而非揭露成分，物質的總體健康危害訊息，已經完整的在健康危害章元詳細描述，揭露配方中單一成份的危害。一來它不代表真正物質總體可能形成的危害，二來容易造成使用接觸者無謂的恐懼及誤解。再者，若無適當方式保護商業機密(CBI, Confidential Business Information)，可能會造成台灣化學品研究及市場競爭的負面影響，同時造成貿易壁壘。揭露低程度之物質產品成分是否能有益於大眾利益尚無從知，但對台灣化學物質可能造成競爭之手不當使用，損害公司權益及競爭性競爭之可能性。加上申請程序繁複及檢附文件難以達成，業界申請意願低，接觸造成新科技研究及開發困難，對台灣長期發展不利，可能造成損害。

我們建議在不危及公司利益及公司權益下，應放寬使用申
請CBI，同時保護公司安全及公司營業機密及其他國家達成較高之一致性。可參考日本、中國、韓國和美國GHS及危害通識之相關規定，讓業者能在此實施GHS的條件下並有效保護CBI，可考慮正真正要一種揭露的化學物質，至於其他物質可使用類名替代。各種化學物質之公告全數，並協同台灣與其他國家的作法調和。

1.2 新化學物質的商業機密保護
有關新化學物質登記申請工商機密保護，在收費部份，同
一個登記物質，於第一次申請時，需繳交機密保護規
費，而申請展延或跨級距變更申請(如簡易登記變少量登
記；或少量登記變標準登記)時，需再申請繳付機密保護規
費。跨級距變更申請或展延並非重新申請，不應收取第一次申
請費用，應僅酌收審查費用。

建議二：降低動物毒理測試要求
因應國際對於動物權利的關注，目前國際的趨勢是不做非必
要的動物毒理測試。同時，已有非常多新興及先進的替代毒理的
方法已經發展出來，以降低將動物暴露在那些測試的風險。

2015年8月出版的新化學物質及既有化學物質資料登記工
具說明，僅物理化學特性資訊部分，皮膚刺激/腐蝕性毒理測
試、眼睛刺激性測試可以使用結構活性關係推估(QSAR/SAR Estimation)，其它測試終點需繳交測試計劃書或者測試報告。其中針對基礎毒物動力學測試項目，僅接受測試計劃書或者測試報告。通常情況下，根據物質的現有理化性質，毒理學數據和相關模型可以推導出可信度非常好的TK數據。而且，基礎毒物動力學測試報告所產生的數據，針對不具有高毒性(CMR I&II)的物質，在最終的危害評估，暴露評估及風險評估並沒有重要作用。考量繳交測試報告不僅造成動物測試活體的危
害且造成這樣的數據需要大量的實驗、人力、物力和時間。

OECD HPV項目，至今400多個物質涵蓋100多個化學類別，read-across的評估方法也被廣泛使用。因此委員會建議參考歐盟REACH的做法，針對基礎毒物動力學測試要求部分，可根據現有理化性質、毒理學數據以及相關模型提供推測分析，作為該物質參考資料，針對人體和環境毒理測試要求，如能提供科學合理性，建議以結構活性關係推估取代測試報告規定。

建議三：提供一個既有化學物質第二階段聯合登錄的平台
在化學品登錄的程序中，若每家公司必須各自登錄他們所進
口或生產的化學品，這種重複性的工作非常浪費時間和金錢，同時也對政府及產業造成極大的行政負擔。在其他市場，政府容許不同公司針對同一化學物質共同登錄，但因為只有政府才有能力掌握所有進口者和生產者的訊息，所以真的需要政府先建立一個讓所有製造或生產同一化學物質的廠商的平台，在歐盟就是所謂的物質訊息交換平台(SIEF)，目前南韓也已經建立類似的機制。同時亦可針對廠商對於商業機密資訊對大眾公開有疑慮的部分，建立一個退場機制。

建議環保署與產業討論並制訂一個實際可行的聯合登錄機制準則草案。

建議四：取消化學物質邊境管制機制

美國商會化學品製造商委員會對於四月一日公布的化學物質相關邊境管制的作法，並未事先與相關的利害關係人溝通表達關切。此政策要求所有進口的化學品，均須在進口文件檢附登錄碼，而每年進口低於一百公斤不需事先登錄或註冊的化學物質，仍要揭露其化學文摘號碼或化學品名稱。這不但讓進口者或製造者加深了商業機密被揭露的風險，同時也增加了相關利害關係人(環保署、海關、進口及製造者等)極大的行政管理負擔。這個新的系統，也增加了商業機密洩漏的風險，因為競爭者可能藉由化學物質的登錄及相關訊息，而推知產品的商業機密配方。目前，雖然此機制仍屬自願性質，但未參與者極可能被列為後市場的優先稽核對象，其實也迫使廠商必須參與。

就本委員會了解，目前全球實施化學品管理的國家，如歐盟或南韓等，並無類似的做法，我們建議取消此機制，而改以書面自我聲明的方式替代，應已足夠進口者保證符合CSNN的要求。

建議五：提供既有化學物質第一階段預登錄更充足的登錄時間

依據CSNN第19條第1項：「中華民國一百零五年四月一日起，預登錄人首次製造或輸入既有化學物質年數量達一百公斤以上者，應依中央主管機關指定期限(在通關或製造後九十天內)，並依附表五第一階段登錄所定項目申請登錄化學物質資料。」其實在既有化學物質預登錄期間許多公司，在過去七個月已耗費了許多人力物力，在和國內外客戶及供應商的溝通、化學物資資料、代理及公證相關程序的準備上。

如果未貿然訂定九十天的晚預登錄時間，則相關進口者、製造者、或代理人將不斷的投入人力物力，一再重複進行和國內外客戶及供應商的溝通、化學物資資料準備、代理及公證相關程序的準備及工作上，增加許多額外的行政負擔。我們強烈建議將九十天的晚預登錄時間改為一年，以有效減少相關利害關係人的行政及管理負擔。

人力資源委員會

本委員會特此感謝台灣政府過去數年致力於使外籍專業人士更容易進入台灣勞動市場，並建立更為完整與詳盡之法令制度。本委員會認同藉由修正勞動法令，平衡台灣勞動市場開放之需求，以增加商業競爭力，同時保護當地勞動力。

若台灣期許強化其作為跨國公司營運中心之地位，有必要建立支持該發展之勞動法律制度。對於全球化經營而言，在彈性、效率、資料充分利用等方面，勞工福利問題必須與商業需求相互平衡。本委員會相信，一個均衡的法律制度，涵蓋商業彈性、合理保障勞工、適當的外籍人士簽證規定，將提升台灣國際競爭地位以吸引人才。

今年度，本委員會提出六項議題，闡述委員們所關注的關鍵領域。第一及第二個議題著重於合理化管理工作時間之系統，包含工作時間記錄、加班之規定及平均薪資之計算，以及改善相關勞動檢查稽查標準之一致性。接著為透過新的派遣勞工保障法以管理派遣勞工，以及配合放寬非競業契約及解約之適用，本委員會於下文所提出之建議，將有助於平衡勞工福利及商業之衝擊。最後，本委員會對於如何吸引外籍人才及留住本國籍人才提出建議，以創造更具競爭力及吸引力的工作環境，並對新修正職業安全衛生條例之實施，執行規範提出建言，以減少適用上之困難。這些議題反映本委員會成員對台灣勞動法規能夠更具彈性及可預測性之共同願望。

建議一：賦予工作時間之相關規定更多彈性

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勞工「合意工作時間」之制度，取代保存簽到簿之嚴格要求。前開指導原則應予以修正，將適用範圍擴及更多種類之實業。惟以辦公室為主要場所勞工及在家工作者。

1.4 保留勞基法第84條之1
勞基法第84條之1規定，經勞動主管機關同意，指定行業從事特定職務之勞工，其工作時間得更有彈性。該條規定謂：「中央主管機關核准之下列工作，得由勞動雙方另行約定，工作時間、例假、休假、女性夜間工作，並報請當地主管機關備案，不受第30條、第32條、第37條、第49條規定之限制。一、監督、管理人員或責任制專業人員。二、監視性或間歇性之工作。三、其他性質特殊之工作。」

為徹底執行法定工時(即每週工作五天、每週工作時間減至40小時)，部分勞工權益倡議者要求廢止勞基法第84條之1，以排除雇主濫用該條文所致之法律漏洞。

1.5 以十二個月作為計算平均薪資之期間
為計算加班費、資遣費以及退休金，「平均工資」係指「計算事由發生之當日前六個月內所得工資總額除以該期間之日數所得之金額」。依照勞基法第2條，「工資」之定義為勞工因工作而獲得之報酬，為經常性給付，不包含獎金或佣金。

實務上，如績效獎金與佣金為定期性給付，將被認定為勞工之薪資。然而，「薪資」應根據該項給付之性質加以認定。例如，保險業務員定期受領績效獎金或佣金，該筆獎金本質上為直接來自於客戶之服務費用，非來自於雇主，故上開給付不應被認定為「薪資」，且計算加班費、資遣費以及退休金時，亦應排除之。

以「前六個月工資之平均」計算薪資時，不利於具顯著季節性或於農曆年發給重要獎金之公司。倘若員工於收入高峯期後退休或終止契約，此種計算方式將使退休金或資遣費膨脹。為了更準確地反映實際情況，資遣費與退休金應以「前十二個月工資」之平均為計算基準。

1.6 修正違反工作規則之罰則
勞基法第70條及其施行細則第38條規定，雇主僱用勞工人數在30人以上者，應訂立工作規則，報請地方主管機關核備後，於所有勞工皆得審視之場所公開揭示之。雇主如違反訂立工作規則之要求，將受到新台幣二萬元以上、三十萬元以下之罰鍰。勞基法第80條之1並規定，主管機關應公布違反職勞之公司名稱、負責人姓名，並限期令其改善；屆期未改善者，應按次處罰。

違反工作規則相關規定之結果相當嚴厲，相較於提供一定之合理期間，促使違法者予以改善，勞基法採取立即之處罰措施。公布違法者之姓名(包含公司與負責人)必然使其名譽受嚴重損害。

本委員會相信，應修正違反工作規則之規定要求之法律效果，以促進職勞遵守法令，而非僅施以懲處。倘若違法者於第一次被要求改善之期限內未予改善，再施以處罰。而公布違法者姓名應作為最後手段。

建議二：加強執行勞動檢查時稽查標準之一致性
勞動主管機關近兩年依勞基法72條及勞基法施行細則第21條等相關規定進行大規模勞動條件檢查，企業在配合勞檢時實際觀察發現，勞檢員在執行不同產業或不同工作場所執行勞動檢查時，卻有稽查標準不一，造成企業難以配合勞檢，卻無所適從，恐造成企業與主管機關間之訴訟或行政訴訟案件倍增，浪費國家行政及司法資源。

本委員會建議勞動部重新審酌目前以傳統勞力密集經濟為出發點的立法方向，參考先進國家的勞動制度，配合修正企業僱用員工出勤紀錄之義務並給予企業與勞動者合意彈性工時的空間(參照前述建議一)，以確保達成勞基法加強勞雇關係，促進社會與經濟發展之目的，在法規尚未修正前，於各地方政府執行勞動檢查時，盡速建立完善的人員訓練，並使勞檢員具備一致之稽查標準及法令專業素養。

建議三：修正派遣勞工保護法草案
3.1 分階段實施「勞動力百分之三」之上限
為因應日漸增長的派遣勞工爭議，勞動部於2014年2月提出派遣勞工保護法草案，然行政院尚未審查通過該草案，該草案之重要議題之一，乃派遣勞工之上限不得超過事業單位僱用總人數的百分之三，此一百分比的上限，將對於產業造成衝擊，特別是製造業，因其僱用之派遣勞工數量最多。

為減緩潛在衝擊，本委員會建議採微進分階段實施，舉例言之，在施行該法案的三年內，派遣員工不得超過事業單位僱用總人數的百分之十，施行後五年為百分之五，施行後十年為百分之三。我們相信，階段性的時程給予僱主時間調整人事安排，應為業界及勞動部雙方皆可接受之折衷方法。

3.2 強化派遣公司之管制
為保護派遣勞工之權益，派遣勞工保護法草案對於要派公司僱用勞工設有諸多規定。然而，實務上，有派遣勞工需求之公司多遵守法令，提供正職員工及派遣員工安全、健康的工作環境與條件。更常見的現象，實係派遣機構(法律上為派遣勞工之雇主)以各種方式違反派遣勞工之權益，例如，未與派遣勞工簽訂不定期僱傭契約、未提供職勞僱主之勞動檢查時稽查標準之一致性

建議四：放寬定期勞動契約之規定
4.1 允許僱主依活動性人力資源需求之增加締結定期契約
現行勞基法對於僱主僱傭或終止契約加諸過度限制，剝奪企業使用彈性人力之機會。派遣公司業務為派遣人員至要派公司執行其交付之工作，而非業務外包執行同一工作，亦非同一派遣員工適合所有工作。有別於保全及清潔等外包工作，派遣公司亦無法保證派遣員工之工作之連續性及穩定性。故建議僱主得與僱員締結短期之勞動契約(一般為短期)及長期契約(一般為長期)，並明訂短期勞務之變更與終止契約，僱員終止契約之理由，以保障勞動雙方之權益。
了雇主在今日高度競爭市場對於人力資本管理彈性的需求，因此，定期契約與人力派遣在台灣相當時盛行。本委員會亦了解人力派遣與定期契約具有密切之關係。本委員會成員表示，現行勞基法對於定期契約嚴格且缺乏彈性之規定，驅使勞動派遣之產生。我們建議，勞動派遣之運用既因新法制定而緊縮，則應放寬定期契約之相關規範，特別是現行法令要求定期契約必須符合勞基法上之四種類型。本委員會建議，只要有暫時增加人力資源需求之情形，應使雇主得締結定期契約。

4.2 放寬特定性定期契約的認定彈性

如前所述，現行勞基法下之定期契約分為四種：臨時性、短期性、季節性、特定性。關於特定性的界定，目前勞基法根據工作性質的不繼續性，且工作時間不超過一年為標準（超過一年需要主管機關批准）。但由於工作需求的多元，某些職位或有之情形，難以符合上述規定。我們建議，應放寬定期契約之認定標準，例如：特定的階段性任務，跨國台灣人才的不繼續性工作，這樣的調整可增加僱主的僱用彈性與策略性人力運用。

建議五：創造吸引外籍人才及留住本國籍人才之誘因

5.1 給予企業獎助措施以增加吸引專業人士之薪酬競爭力

受限於我國整體市場規模及薪資水準，國內企業時常難以提出具有國際競爭力之薪酬，不僅缺乏吸引外籍專業人士之誘因，本國籍專業人士遭高薪挖角至他國之情形更是時有聞。本委員會成員建議，除了放寬外籍專業人士之薪資限制外，亦應給予企業一定之租稅優惠或其他措施，以鼓勵企業以具有國際競爭力之薪酬配套聘用本國籍或外國籍專業人士。

5.2 修改「違反我國法令情節重大」之廢止聘僱許可事由

就業服務法第73條第6款規定：「雇主聘僱之外國人，有下列情事之一者，廢止其僱傭許可：六、違反其他中華民國法令，情節重大。」然此規定過於模糊、概括，導致外籍專業人才動輒遭遣返，無法繼續於我國服務。本委員會成員曾舉一例表示，該公司有一外籍技術人員在台已經工作六年，素行良好，無任何犯罪紀錄或不當行為，於2007年12月某日因酒後騎車自撞滑倒受傷，雖無造成其他人員受傷，送醫後經診斷為公共危險罪送辦，該員工對此次過失深表歉意，配合出庭且繳交罰金約10萬元，終獲緩刑2年，卻於處分函收到後立即被取消工作許可，並限期出境且三年內不得入境，實屬不公。因此，我們建議，根據勞基法第12條第1項第3款：「受有期徒刑以上刑之宣告確定，而未諭知緩刑或未准易科罰金者」之規定，修改就業服務法第73條第6款之規定，以避免外籍專業人士動輒遭遣返。

建議六：於勞基法施行細則明訂離職後競業禁止條款之細部執行規範

新修正勞基法第9條之1明定離職後競業禁止條款之四項要件，勞動部亦配合上項修法，於2016年2月4日預告修正勞基法施行細則第7條之1，7條之2，7條之3草案（下稱「施行細則草案」）。然而，上述勞基法第9條之1及施行細則草案中，均未敘明此新規定如何適用於新法施行前已簽訂之離職後竟業禁止條款。

此外，關於勞基法第9條之1第1項第4款所稱之「合理補償」，實務上之操作困難，本委員會建議訂定明確之評估標準，例如：每月補償金額是否不低於勞工離職時月平均工資百分之五十，或已足以維持勞工於離職後競業禁止期間內之生活所需，以減少適用上之困難。

基礎建設委員會

今年基礎建設委員會主要焦點放在確保能持續提供充足、穩定可靠、以及具有價格競爭力的電力供應。同時我們也關心台灣是否能實現在2030年以前，相對於2005年的碳排放水平，減碳20%，以及2050年前，減碳50%的承諾。此外，我們也建議政府藉由引進採納最新的電力需求端管理技術，積極地對應能源問題，並且對離岸風力發電場的發展，提供更多的支持協助。

有關政府採購部分，臺灣自從在七年前簽署政府採購協定開放市場，但成效並不特別顯著。我們建議政府採取措施，以吸引更多外國公司來參與政府採購市場，包括修訂公共工程計畫的招標條件以及建議五所列政府採購法內之不合理規定。

建議一：台灣能源 ─ 視著於充足、穩定可靠之電力供應，並持續降低成本

充足且穩定可靠的電力供應是高科技製造業生存的基本需求，即使是短暫的供電中斷或微秒的電壓驟降，也經常會造成嚴重的生產設備與產能損失；因此，維持足夠的備載電力以確保供電品質穩定可靠，並提供具有成本競爭力之電力將是維繫產業競爭力的重要關鍵，尤其對產業用戶而言，保持盈利的基礎就是取得具競爭力的能源成本，我們鼓勵台灣電力公司（台電）在未來能著眼於此三大關鍵領域-充足、穩定品質及成本，並持續努力改善。隨著核能四號機組的封存，以及政策上預定將於2025年以前除役的其他核能機組，產業界對於台電是否有能力提供充足且穩定可靠的電力供應的關切與日俱增。考量到台灣百分之十六的供電來自核能發電，未來長期的能源政策對於是否能夠維繫產業運作充足、穩定且具成本競爭力之電力供應，將是極為重要的議題。

因此，我們建議：a. 政府應該訂定清楚的能源政策與方向，以緩解產業用電壓力。f.
b. 考慮供電中斷或電壓驟降的根本原因，更重要的是要採行適當的防範措施將供電中斷或電壓驟降的風險降低至最低。台電應持續與大型產業用戶定期會晤，共同討論中央及地方的電力需求以及供應面的挑戰。

c. 對策銷性高科技製造產業的用電大戶來說，穩定的電力供應是維持生產力的關鍵。台電應與這些企業合作，實現在技術上更先進的電力系統。

d. 在亞洲國家中維持電力供給價格上強大的競爭力支持經濟成長。台灣的大型產業用戶大多身處全球市場的競爭當中，電力價格對基本營利有著重要的影響。對於制定電價公式的細節、方法、流程等均須更加透明，以利工業用電大戶對未來電價變化預做準備，並在編列預算與財務規劃時避免造成負面的衝擊。尤其，核能四廠機組的除役相關成本的會計作帳方式更須謹慎小心。當這些機組無法再產生電力或作為任何其他用途時，這些成本不應從電力使用者身上回收。這些成本最有效的支付方式，是由政府編列預算來支付此類的“套牢成本”。如果讓台電在資產負債表上因應，可能造成其破產及電價大漲。

e. 提供充足、可靠的天然氣供應以利發電，並提供其它產業使用。經濟部和中油應及時興建第三座液化天然氣接收站。未來的幾年內，當國際天然氣市場價格劇烈變動下，中油公司須確保天然氣的購買價格已經過審慎比價。作為台灣液化天然氣的獨家進口商，中油公司在如何平衡現貨與長期天然氣採購方面應更加透明化。

建議二：考量穩定的供電需求及減碳承諾目標下，制定確實可行的能源政策

如同世界其他國家，台灣也在去年12月宣布了“國家自願減碳目標”（INDC）。台灣承諾在2030年及2050年將碳排較2005年分別降低20%及50%。達成此承諾的路徑仍不明確。台灣碳排一半以上來自發電。發電主要有三種方式：火力（燃煤、燃氣）、核能及再生能源。火力發電會排碳，核能與再生能源沒有碳排。台灣目前發電量中火力佔比78%、核能佔比17%、再生能源佔比5%。如果要達到“自願減碳目標”，台灣必需大量減低火力發電的依賴而大幅增加其他發電方式。

然而，因為政府的“非核家園”政策，台灣未來顯然不會再增加核能發電，而核電目前每年提供約400億度電。目前不但核四已封存，政府並決定在2025年前將現有核電全數除役。問題在於再生能源能否提供400億度電，即使可能，也必須要能夠取代400億度核電。

3.2 研究需求端管理（DSM）的最新科技，包括需量反應（DR）及節能（EE）措施

a. 需量反應係一項乾淨、具成本效益且可以快速建置以減低尖峰電力需求的措施。一般而言，電力公司需要有足夠的發電容量，以應付尖峰需求。然而，尖峰時段佔全年用電時數的比例非常小，因此為了因應尖峰用電需求而新蓋及維持發電容量，成本非常昂貴。需量反應透過創新科技，對工商業用戶提供優惠措施，鼓勵他們將用電行為移轉到非尖峰時段，以減低尖峰用電。以此一來，可以減少電力公司為因應尖峰需求而必須投入的額外成本。

我們了解經濟部、能源局、台電及國內一些能源智庫，已開始探討台灣如何引進各種不同的需量反應措施。如要快速及有效率的建置需量反應推動機制，我們建議台灣導入需量反應聚合模式，並提供具吸引力的補助機制，以促進更多用戶參與需量反應。

b. 評估現行對住宅用戶的節能計畫之效益，提昇大眾的節能意識並鼓勵用電行為的改變。一般而言，住宅用戶節能比工商業節能困難，因為其成果較難測量，且不容易達到大幅度的節能效果。在台灣，我們發現住宅用戶的節能計畫效果有系統性問題，因此我們建議將節能計畫效果進行全面性的檢討，並提出有效的解決方案。
場址，許多有經驗的國際風力發電開發商都對於來台開發風場表達高度興趣，不過，當他們仔細研究相關法規後發現，整個申請流程所需的政府許可或意見書，牽涉到太多不同層級的政府部門，以及太多的利益關係人，大家都有不同的想法、專業能力或經驗。換言之，整個申請流程法規太冗長、複雜，高度政治化且無法預測。

再生能源的發展 — 包括離岸風力發電 — 是新政府承諾將全力推動的產業之一。本委員會願意提供全力支持，並敦促新政府重新檢視並簡化現行的開發申請流程，以鼓勵有經驗的一流國際離岸風電開發商進入台灣，貢獻他們的專業與經驗，協助打造台灣經濟的新產業。

如果開發申請流程能夠簡化，將可以提高本地銀行對離岸風力發電開發商提供融資的意願。否則，在申請程序冗長及政府核發許可的狀況不明下，銀行提供融資的意願會降低，不利於台灣引進有經驗的開發商進入市場。

建議四：吸引外國公司參與政府採購案件

七年前台灣在世界貿易組織(WTO)架構下，簽署政府採購協定開放予GPA簽署國家互相參與政府採購市場。目前成效並不特別顯著，我們認為主要原因有二，第一非技術壁壘因素造成外國公司喪失參與的興趣，第二是採購制度上對外商參與政府採購不友善的印象。

我們觀察到國營企業為了溝通方便、價格較低，以及有時為了在甄選的政治過程能獲得較少的競爭對手，往往在招、標過程中對本地設備及服務供應商有所偏護，又或在於制式政府採購合約中加入許多違背參與競標公司認為公允及國際公認合理條件的條款。此一傾向之直接結果是台灣的政府標案無法吸引國際一流公司參與競爭，以致政府為人民提供更好、更有效率的服務的願望打了折扣。這種壁壘不僅將整個台灣的採購市場形象，在國際社會破壞無遺，更遠遠的影響台灣的相關產業及服務由於隔離了國際上最新的技術發展而滯礙了產業的進步。

我們建議對現行政府採購招標文件的商業條款作若干修訂，使其更能為世界級的工程顧問及設備供應商所接受，我們也希望能擴大適用在簽訂GPA協定後改制的縣市，如新北市、台中、台南、桃園及其它中央政府機關等。

採納我們的意見可以讓新政府創造一個更開放的政府採購環境，以利於擴大國際參與及促進最新發展的技術進入台灣。

建議五：建議刪除政府採購法內不合理的規定

臺灣的政府採購法(第88條、第89條、第101條及第103條)內，對於承辦公共工程之規劃、設計、採購、審閱、計畫管理或監造工作之工程顧問公司之相關員工，如果該員工在執行工程相關工作時為個人利益而涉及疏失行為，訂有嚴格的處罰規定。刑度為1至7年以下有期徒刑得併科新台幣一百萬至三百萬元罰金。

我們特別關切政府採購法對這種情形的附帶規定，那就是該名犯罪嫌疑的雇主公司將被禁止投標公共工程及擔任下包廠商長達3年。在現實生活中，雇主對於僅對個人員工是否能完全管控其個人行為，但在現行法規之下，僅僅惟一單位員工的個人錯誤行為，卻導致有數百名(甚至上千名)員工之工程顧問公司遭受停權處分。

有案例顯示員工在一審判決有罪，而其雇主公司即遭公佈停權處分。但在後續的冗長法律程序後，級法院對於該員工最後作成無罪判決。然而，撤銷停權處分，但對公司營運及信譽方面的重大損害已經造成，也沒有任何尋求補償的管道或措施。另外也有案例顯示，在未經法院審理判決之前，政府單位即參照檢察官的起訴書，很不合理地直接對工程顧問公司予以停權處分。

這種對工程顧問公司的停權處分是非常獨特的規定。而這種規定也不合理，因為我們需要工程顧問公司提供專業工程技術以協助整體經濟發展，尤其是在推動公共工程方面。我們鄭重地建議刪除政府採購法內相關的條文，以移除掉對於工程顧問公司不合理的停權處分規定。

保險委員會

目前全球的趨勢朝向讓產業關係人間有更大的資訊透明及更好的溝通，所以本保險委員會謹結合該等理念於今年的白皮書之中。台灣目前所處於在該等方面均須顯著進步的狀態，並同時穩固建立在區域及全球的領導地位。朝此方向將強化更穩定且消費者導向的市場，同時亦促進相關產業的繁榮。

本保險委員會謹此表達對於所有相關單位及局處的感謝，謝謝政府單位積極努力去改善台灣的市場環境，也誠意仔細聆聽業界的心聲並考量我們的擔憂。我們非常期待與政府一起持續合作去實現今年白皮書的建議。

建議一：檢視現行監理保險經紀人之法規政策

1.1 繼續允許保險經紀業者就同一保險契約提供保險與再保險服務。我們了解保險主管單位數度試圖禁止保險經紀人在同一保單下同時進行直接保險及再保險之經紀業務。該限制實與國際上保險及再保險之實務有違。此外，為使台灣企業得持續獲得更有效率之保險經紀服務，即降低成本、維持國際競爭力，我們誠摯希望能繼續允許保險經紀人能就同一保險契約提供保險及再保險服務。

目前保險經紀業者同時經營保險及再保險業務之經紀業務基於市場需求所使，因為跨國公司(或可能遭受龐大、複雜風險之公司)需要由單一保險經紀公司以其相關專業為跨國企業之保險及再保險提供服務，避免有利益衝突的問題。目前台灣之規範體系與許多主要之保險市場規範相同，如英國、澳洲、香港及新加坡，這國家僅要求保險經紀公司在內部實行適當之作業分工，區隔直接保險及再保險之經紀業務。此外，若保險經紀公司允許其員工個人之利益衝突，並且取得相關當事人之同意，實在無理由全面禁止保險經紀業者就同一保險契約提供保險及再保險服務。

1.2 允許保險經紀業者在大陸提供服務。由於台灣及大陸業務來往頻繁，許多台商在大陸經商時有風險顧問服務之需求。不幸的是，在目前「臺灣地區與大陸地區保險業務往來及投資許可管理辦法」之規範下，僅有保險業得於大陸地區為再保險業務、協助辦理各項保險理賠服務、損害防阻之顧問服務及其他經主管機關核准之保險相關業務之業務往來。保險經紀業者並不被許可提供其服務予在大陸經商之台商客戶，此限制忽略了台商之實際需求。

依目前之市場狀況，勞依茲集團成員已在中國設立其北亞辦公室，而非在香港或其他地方，且僅有在中國(非倫敦或新加坡)之集團得承保台灣之再保險業務。因此，臺灣保險經紀業者無可避免的必須依客戶要求在中國進行再保險安排。此外，當有國際性保險契約簽發予在台灣之台灣公司，被保險人(可能亦包含其在大陸之子公司或關係企業)將要求保險經紀公司亦為其大陸之子公司或關係企業提供理賠服務，此亦為國際市場實務。

現行規範不僅禁止保險經紀公司履行其經紀業務之財務制度外，並有許多台灣業界之相關案件。
之需求，我們認為亦應如同保險業，開放保險經紀公司經主管理機關規定後在大陸提供再保險經紀業務、保險理賠服務、損害防阻之顧問服務是相當重要的。

建議二：持續強化消費者取得保障型保險之便利性與容易性

本委員會對主管理機關改善消費者取得保障型商品的管道表示認同及感謝，我們將持續鼓勵主管理機關作出更積極的開放，讓民眾得以透過創新的商品和科技，且在資訊透明的狀態下取得適當的保障。

2.1 持續強化簡易使用數位化的方式取得保險保障

在推動保險的電子商務交易方面，台灣仍持續落後於其他國際地區。包括香港、英國、美國等國際間其他類似的市場，台灣業應加速採用國際標準，藉由開放以簡便、透明、方便的網路投保方式來購買保險商品，更多的社會群眾可以享受他們所需要的保障。

本委員會對金管會及保險局於2016年3月新修正「保險業辦理電子商務應注意事項」表達感謝。為更進一步強化修正的方向，建議再擴大得於網路進行投保的商品種類。再者，此次修訂開放要保人、被保險人不同人時亦能於網路進行投保，但必須要使用實體憑證才能完成投保程序。這種「自然人憑證」需要使用到特殊的讀卡機設備，這將阻礙了大多數想要利用網路進行投保的消費者。我們建議相關主管機關重新審視並刪除此項限制，因為這明顯的阻擋將保險帶入數位化的年代。

2.2 創新保險理財電子商務

我們也建議主管機關能重新審視並刪除消費者保護法中有關三日審閱期的規定。這項法規的限制並無實質的意義，同時也阻礙了電子商務與電話行銷提供客戶簡單且立即取得適當的保障。因為保險契約中已提供消費者於收到保單後十天內契約撤銷的權利，且毋庸負擔任何費用，三天審閱期的機制並無必要。

本委員會支持並贊賞政府近期推廣和鼓勵台灣的金融科技所做的努力。但金管會於2015年10月公告的函釋似乎和這個方向背道而馳，這項函釋只開放10家保險經紀人或保險代理人試辦網路投保業務，並且附加年度營收最低新台幣5億元的限制，此類的限制非常少數國家會對保險商品有類似的課稅，然其課稅是採附加值型之架構且該等稅賦是外加而非內含於保費之中。所以，參酌其他國家地區的課稅制度並使消費者獲得的資訊更透明，我們建議調整為加值型的稅賦結構，並使稅額明確列報外加稅。

建議三：減輕保險公司因營業稅率提高而產生非預期後果的過度財務壓力

2014年營業稅調漲幅度超過了2倍，增加了外商壽險業者的財務負擔並在整個保險業界造成了稅賦分擔不均的現象。在目前的模式中，新的營業稅公式對於保障型/風險集中型保險商品的銷售特別不利，而此對政府為社會大眾的利益而推廣該類型商品的方向是分歧的。我們強烈建議政府尋找可能的方式並徹底解決此問題。

依金管會日前委託由法律事務所進行之專案研究，該研究的分析中提及，大部分的歐盟國家以及OECD國家都將人身保險業列於免營業稅課徵之範圍，包含英國、美國、加拿大、韓國、日本、紐西蘭、澳洲、南非、新加坡及馬來西亞。僅有極少數國家會對保險商品有類似的課稅，然其課稅是採附加值型之架構且該等稅賦是外加而非內含於保費之中。所以，參酌其他國家地區的課稅制度並使消費者獲得的資訊更透明，我們建議調整為加值型的稅賦結構，並使稅額明確列報外加稅。

本委員會瞭解要修訂法律達到上述的變更將是十分複雜的程序。然而，近期內仍應有改善此現行的行動方案：

1. 重新名稱「本業」以及「專屬本業」之稅目，將保障型商品分類在「專屬本業」之範圍內且適用2%的稅率。

2. 依國際間基本的法律不溯及既往原則、信賴保護原則以及行政公平原則，允許在稅率調升前已售出的保單仍繼續適用舊的稅率。

3. 以下列方式減輕稅率調升對外商壽險業者的影響：
   a) 將壽險業者得適用與產險業者相同的規定，將自留賠償額扣除於稅基之外。
   b) 提高保障型商品及健康型商品免於營業稅的課徵。

4.4.1 開放受雇人員將退休金中的「自願提撥」部份，作多元化的投資配置

根據國家發展委員會所公布的資料，台灣將於2018年進入「高齡社會」，屆時有一成四的國民年齡將到達或高於65歲。國發會預估到2025年時，高齡人口比例將達二成，亦即台灣即將進入「超高齡社會」，同時，就業年齡(15到64歲)人口數將於2016年開始逐漸下降。目前百位受雇業者須負擔約35位撫養人口(幼兒及高齡者)的費用，由於高齡人口快速成長，上述數字將於2060年時增加為99人。壽險並不意味身體能夠常保健康，醫療支出未來將隨著年齡增長而快速增加。為因應高齡社會以及勞動人口短缺所產生的各項問題，本委員會建議政府改革國內退休金制度並提高購買保障型商品的保險費列舉扣除額，以鼓勵大眾提高其壽險保障。

目前台灣的退休金制度由勞工退休基金管理委員會或其所指定機構掌管。近年來，勞動部與金管會已同意並支持勞工將其退休金自選投資標的政策。因諸多受雇人員，尤其是長期投資的年輕受雇人員可進一步將其退休儲蓄金進行多元化處理，進而分配在具有較高報酬的投資配置上。包括香港、新加坡、美國及歐盟在內，該等國家的退休金制度均允許受僱人員，將一部分退休金按個人需要配置於具較高報酬的無擔保投資標的上。因此本委員會偕同資產管理委員會，建議勞動部與金管會盡快採取實際行動，開放讓受僱人員自行將退休金中的「自願提撥」部份作更多元化的投資配置，有別於目前以兩年期儲蓄存款利率計算之最低保證收益方式。

另一方面，保險費列舉扣除額每人新台幣二萬四千元已維持數年。由於購買人壽與健康保險支出不斷增加，本委員會建議政府提高保障型商品的保險費列舉扣除額，以鼓勵大眾購買保障型商品以因應。

建議四：因應台灣邁入高齡化社會，建議政府推廣大眾購買重於保障及退休的保險商品以因應

4.1.1 開放受僱人員將退休金中的「自願提撥」部份，作多元化的投資配置

根據國家發展委員會所公布的資料，台灣將於2018年進入「高齡社會」，屆時有一成四的國民年齡將到達或高於65歲。國發會預估到2025年時，高齡人口比例將達二成，亦即台灣即將進入「超高齡社會」，同時，就業年齡(15到64歲)人口數將於2016年開始逐漸下降。目前百位受雇業者須負擔約35位撫養人口(幼兒及高齡者)的費用，由於高齡人口快速成長，上述數字將於2060年時增加為99人。壽險並不意味身體能夠常保健康，醫療支出未來將隨著年齡增長而快速增加。為因應高齡社會以及勞動人口短缺所產生的各項問題，本委員會建議政府改革國內退休金制度並提高購買保障型商品的保險費列舉扣除額，以鼓勵大眾提高其壽險保障。
產業優先議題
員會建議提高該列舉扣除額的額度以鼓勵大眾購買著重於保障及退休的保險商品;此舉可降低意外事故影響,並減少政府潛在長期社會成本與財政負擔,基於各項保險所造就的社會價值,本會亦建議政府可免除保險業者此類保險商品的營業稅。

4.2 進退休型保險商品的發展
基於促進退休型商品的蓬勃發展,我們建議保險局審慎考量將外幣收付之非投資型人身保險業務各種準備金,不計入國外投資額度的上限。

退休型商品之目標為提供長期穩定的投資報酬;其關鍵因素是投資標的之多樣化,而國外投資就是其中一個重要因素。一般而言,因為外幣收付退休型商品能從海外投資獲取較高報酬,故相較於台幣收付退休型商品,外幣收付退休型商品能提供保戶更優惠的定價。然而依現行保險法相關規定,非投資型人身保險業務各種準備金以及國際保險業務分公司之商品,最多僅有25%不計入國外投資額度;此額度上限,將迫使壽險業者難以達致平穩的投資報酬與有效的風險分散。

若就實務面觀之,一旦當外幣收付型商品之準備金逼近所有非投資型人身保險業務之25%時,此額度上限將減少壽險業者從事國外投資的能力。壽險業者也因此將缺乏推廣外幣收付退休型商品的誘因。

考量退休型商品在台灣日益老年化社會當中扮演重要角色,我們懇切建議主管當局能將外幣收付之非投資型人身保險業務各種準備金,以及國際保險業務分公司相關商品,排除於國外投資額度的上限計算之外。

建議五：簡化產險保險商品送審程序,以滿足商業市場的需求
個人保險通常為定型化商品並大量銷售予個別消費者,而商業保險係出售給法人並且可能基於客戶要求而量身訂作,以滿足不斷變化的市場需求。鑑於在台外資及跨國企業之數量為數不少,現行商品送審流程已不足以即時滿足其對保險商品之需求,導致許多公司在台灣只能購買如財產或汽車保險等基本保障。此外,許多家台灣公司均有海外投資,該台灣母公司可能想安排主保單以保障其於全球營運之風險。為因應全球化市場,提拔台灣的競爭力,謹建議如下：

a. 建議針對非規章費率企業保險商品及附加條款之送審流程採簡易備查制,與個人保險商品之送審流程有所區別。此一作法可迅速滿足企業保險客戶需求、有助於確保企業保險客戶於進軍全球市場同時,其風險得到完善的保障或降低,並且有助於新的商業客戶在台灣的投資中獲益。

b. 對於長期期之財產保險商品,作為反應市場需求,建議訂定特別之財產保險商品送審機制。舉例而言,根據證券交易法規定,公開說明書其應記載之主要內容虛偽或隱匿致投資者損失時,投資者不論從事何種投資,均應享有訴求賠償之訴訟權,甚至可對公司提出賠償訴訟。根據該公司提供之財產保險商品之資料,如果證實該商品有可能對消費者造成損失,則該公司應對消費者負有賠償責任。因此,建議將財產保險商品之送審程序訂為特別程序,以便於消費者迅速獲得賠償。此外,建議將財產保險商品之送審程序訂為特別程序,以便於消費者迅速獲得賠償。
建議二：對著作權法進行必要的修正

2.1 維持現行法的刑事罰則，包括對於光碟盜版的罰則。智慧財產局2016年4月提出的著作權法修正草案第四稿刪除了光碟盜版六個月有期徒刑的最低刑度。雖然現在光碟盜版不常見，但市面上仍可發現，並不時有高品質的光碟以及硬碟和SD記憶卡等實體媒介物的盜版品在市場上銷售。例如，2014年11月查獲超過50,000片江蕙告別演唱會的盜版光碟，以及2015年12月也查獲超過50,000片載有未經授權的音樂、電影及軟體的盜版光碟。

除了建議維持現行法刑事罰則外，另建議修正著作權法將涉及盜版內儲存於USB隨身碟、記憶卡等類似光碟但儲存容量更大的其他數位儲存媒介的侵權行為也列為公訴罪。

2.2 刪除通常家用接收設備再公開傳達合理使用之規定。智慧財產局著作權法修正草案第四稿第67條規定允許以「通常家用接收設備」再公開傳達已公開播送之著作。本條規定無視於WTO世界貿易組織的TRIPS協定(與貿易有關之智慧財產權協定)中所規範之限制不恰當公開傳達之三步測試原則。WTO的仲裁庭曾就美國著作權法中類似於智慧財產局所提草案規定效果的「商業豁免」規定確認以上立場。歸咎其原因就是草案規定對於「通常家用接收設備」未能明確定義。隨著科技的進步，不易界定家用與商用接收設備。事實上，許多家用接收設備可以且同時也經常被使用在商業場所提供大眾娛樂收視。在台灣常見許多商業場所使用家用接收設備播放電視節目。因此，很明顯的這種例外並非如三步測試原則所規範的僅適用於「少數特殊情況」的使用，已違反TRIPS與貿易有關之智慧財產權協定關於檢驗合理使用之三步測試原則之規定。況且，由於並無法律控制「家用接收設備」做商業目的使用或在商業場所使用，草案此項例外規定同時也已違背「不違反著作權人之合法權益」及「不合理損害著作權人之合法權益」其他二項三步測試原則所要求的條件。由於本條草案規定將抵觸TRIPS協定，本委員會強烈建議應予以全部刪除。

建議三：採取有效之措施解決網路著作權侵害之行為

亞洲各國政府在過去數年間，均努力尋求對抗海外網站從事非法著作權侵害的問題。這些盜版網站以侵害他人的創作—包括電影、電視節目、音樂、遊戲、軟體及其他著作權產品而獲取利益，因此而扼殺了海內外創作人應有的市場價值。

對於設在台灣境內託管之網站的非法與侵權內容，現行著作權法已賦予網路服務提供者(ISP)“通知/取下”的責任，但其並無法處裡来自非託管網站及境外網站之非法活動，因此而逾越了司法管轄權範圍。

在台灣，典型盜版行為係經由P2P分享軟體及多媒體機上盒所提供之連結連到海外盜版網站，該等網站提供大量未經合法授權的內容。由於相關法令的欠缺，該等提供侵權內容的網站無法被封鎖，亦無其他有效解決之道。

歐洲聯盟法院於2014年業已確認，給予權利人聲請法院封鎖網站強制處分的權力，係符合歐盟著作權指令第8(3)條的相關規定，而不論ISP業者是否須對侵權行為負責，此種作法亦未損及基本人權。此種封鎖網站的措施，目前已被國際法上普遍採用。超過四十個國家或地區業已實施，包括英國、法國、義大利、德國、西班牙、荷蘭及亞洲地區的新加坡、南韓、馬來西亞、印尼及印度等。各該國家均已採取行政或司法的途徑，封鎖近用境外惡意侵權網站。

經濟部智慧財產局於2013年曾經提出著作權法修正案，欲透過行政手段封鎖盜版網站。但是因為面臨強烈抗議，建議封鎖網站不得無償地轉達於網路使用者，故撤回該修正案。此建議由於沒有改變行為方式的手段，故已撤回該修正案。於2015年逐漸對網絡結果的手段進行更進步的措施，許可使用未經他人授權，對富有著作權之著作正當利益之網站，得以排除於封鎖網站之侵害。

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建議四：加強智慧財產法院核發更多證據保全命令及裁定合理損害賠償金額之意願

在著作權侵害案件中，由於台灣法制上缺乏如美國訴訟法上之證據揭露制度，權利人之利益保護顯然不利。有鑑於台灣智慧財產法院在國內智慧財產保護上扮演極端重要的角色，本委員會強烈建議應進一步強化智慧財產法院在著作權侵害案件上之公訴能力。
醫療器材委員會

全球許多衛生主管機關均面臨該如何管理其法規系統以面對醫療科技的快速發展、民眾對醫療照護品質的需求量提升及社群媒體所帶來的大量訊息。因此，醫療器材在醫療法規系統中扮演著重要的角色。為了確保醫療器材的安全性和有效性，各國都制定了嚴格的法規來管理醫療器材的製造、銷售和使用。

醫療器材法規

醫療器材法規是確保醫療器材安全性和有效性的重要工具。該法規包括了醫療器材的設計、製造、銷售和使用等方面的規定。根據醫療器材法規的要求，醫療器材製造商必須確保其產品的性能和安全，並必須按照規定進行相關的試驗和測試。此外，醫療器材法規還規定，醫療器材使用者必須按照規定進行使用和維護，以確保醫療器材的安全性和有效性。

醫療器材一部分

醫療器材的一部分是醫療註冊。醫療註冊是醫療器材製造商必須完成的程序，以確保其產品的安全性和有效性。醫療註冊程序包括了產品的設計、製造和銷售等各個環節。醫療註冊的目的是確保醫療器材製造商已經按照規定進行了相關的試驗和測試，並已經按照規定進行了產品的設計和製造。

醫療器材審查

醫療器材審查是醫療器材法規的重要部分。醫療器材審查的目的是確保醫療器材的設計、製造和銷售符合相關的法規和標準。醫療器材審查的程序包括了產品的設計、製造和銷售等各個環節。醫療器材審查的目的是確保醫療器材製造商已經按照規定進行了相關的試驗和測試，並已經按照規定進行了產品的設計和製造。
提議二：建立合理的醫療器材健保給付制度

台灣醫療器材的健保核價原則何か類別，同一功能醫療器材的給付原則依同一健保價，無法考量個別產品的製造成本與上市時間差異。然而國家健康保險基金隨著而來的價值協調、點值浮動，價值調度，全民健康保險住院診斷門診（Tw-DRGs）等，疊床架屋的價格與總量限制，對醫療器材的推展是重重考驗，影響廠商引進新產品及健保給付制度之意願。

感謝健保署參見業界之建議，近年來引進醫療器材差額負擔制度、新增未費專用費專門規範、修改國內生產毛額（GDP）比值等不再友善的健保核價原則，逐步檢討價值調度制度，不僅讓廠商在有限的空間下，得以持續鼓勵廠商引進新科技醫療器材及早進入台灣市場，也逐步改善醫療器材健保給付比例及廠商估貨意願。

合理的核價原則、透明公開的審查流程、可預期的政策及營運環境及競爭市場之機制，都是影響醫療器材廠商引進新產品、建立合理的醫療器材健保給付制度之重要因素。本會建議：

(a) 當醫療器材廠商無法接受健保價時，允許醫療器材得保留於自費市場。依據全民健康保險藥物給付項目及支標準第十一章之二文規定，醫療器材許可持有者對於健保署之建議健保價如有不同意見，得提出申覆。但是如果雙方持續無法取得共識，則可能影響醫療器材的自費核准及市場的供應權。

醫療器材廠商可能基於多考量無法接受健保的建議價格。例如，面臨醫療院所的議價與健保價差，以及接踵而來的價量調查，對市場與價格帶來的影響。又或者壺有時候健保價可能是在參考類似功能類別中其中一個產品的價格，無法合理反映其他產品的成本。健保署希望提高醫療器材納入健保給付的用意，若單純以法規規定收載而忽略自由經濟市場原則，不僅會對新功能醫療器材的推展及發展造成影響，同時也影響病友使用新醫療產品的權益。

(b) 建議健保署對新增差額負擔類別審查頻率由每年二次增加為四次。差額負擔制度是透過健保與民眾共同負擔的方式，達到不增加健保財源，又讓病友有更多治療選擇的給付機制。然而差額負擔特材除了比照一般新功能醫療器材評估流程，須經由專家諮詢會議審查外，還要提案健保會討論，無形中也延長了病友使用差額負擔醫材的等待期。目前每年新增差額負擔類別僅約1-2項，建議增加健保會討論新增差額負擔類別的頻次以降低審查等待期。

提議三：精簡上市前審查流程並提升其透明與一致性

3.1 經美國FDA等主管機關之審查，美國醫療器材產品適用簡化審查。由美國FDA專業審查之結果常為各國主管機關之參考，本會建議食藥署接受以美國上市證明文件來取代產品查驗登記所要求之臨床前測試、原廠品質管制及滅菌放行等相關文件，此舉將能加速查驗登記流程。

3.2 製售證明文件應於領證前檢附。食藥署於104年實施查驗登記之初篩試行方案，將製售證明列為查驗登記之必要審查文件之一。此舉讓新進科技醫療器材產品能及早於市場中競爭，增加新進科技醫療器材產品於市場中的競爭力。

3.3 接受法定製造廠商為法規遵從責任的製造廠。GHTF（現IMDRF）定義「製造廠」為具有負責醫療器材設計及/或製造之自然人或法人。本會建議において醫療器材設計及製造之法律責任由製作與設計之自然人或法人負擔。依法令規定，製造廠需具有負責醫療器材設計及製造之法律責任，並必須為醫療器材設有完整之品質管制系統，以確保產品的安全與有效。

其他

脊骨神經醫學

自2006年來美國北美商會的脊骨神經醫學博士會員們每年在台灣白皮書都提出了同樣的議題-他們的專業在台灣未獲得法律上的認可。縱使世界上每個主要國家幾乎都已經透過正式或非正式的途徑，來承認或甚至鼓勵利用脊骨神經醫學治療的益處給人民以消除疼痛。

兩年前，政府有意找尋解決方案，此舉頗令人感到鼓舞。在國家發展委員會的協助下，一連串的會議於衛生福利部召開，且此議題亦受到當時行政院副院長的重視。但令人沮喪的是，此番努力的結果卻是徒勞無功，儘管脊骨神經醫學協會的代表們試圖與本地的醫療團體溝通，幾位台灣的醫療專業會員卻明確表態，由於專業保護政策，所以不接受並抵制脊骨神經醫學，有些人強烈敵對的情況甚至是在以往其他先進國家所未曾見過的，但在美國及其他許多國家，西醫師與脊骨神經醫師相互緊密地合作來提供病患全人照護。

由蔡英文總統，陳建仁副總統與林全行政院院長所組成的全新政府已經準備好面對許多長期以來台灣社會與經濟的重大問題，而認可脊骨神經醫學的議題值得新政府以高度重視的態度來重新審視。
加顯示台灣日益重視整體體適能與健康的觀念，但也代表更多人口可能因運動傷害而有痠痛、扭傷的問題，這些脊骨神經醫學都能有效的改善。

由於脊骨神經醫師(以下簡稱脊醫)本身長時間的專業訓練，針對上述的問題能夠提供獨特有效的治療。在取得學士學位之後，需要經過脊骨神經醫學院五年的嚴謹訓練。這些在台灣的脊骨神經醫師已經在別的國家通過國家考試並取得當地的執照，大多是在美國與加拿大等國，卻礙於現行法規，未能執業。台灣政府2004年在世界脊醫組織聯盟的大力協助下，取得世界衛生組織大會觀察會員的資格，卻未見政府對脊骨神經醫學專業有所善意地投桃報李。基於維護台灣患者獲得脊醫治療的權利與潛在助益的原則，台灣政府應該效法世界其他已提供脊醫合法執業位階的85個國家。台灣可以參考香港的做法，先認可已經取得海外執照的合法脊醫，如此做法可以讓脊骨神經醫學走出現有的陰影，初步提供適合專業發展的環境，以利日後台灣本土教育課程與執照考試的建立，這才能讓此專業在台灣永續發展。

菸品

建議一：政府在提出大幅度的菸品稅捐政策變更前，應先徵詢公眾意見。

於2014年與2015年之白皮書中，本部分已強調政府對於菸稅與菸品健康福利捐之政策，應本於“合理、漸進與可預測”等原則。過去的經驗顯示，凡對菸稅或健康捐之金額進行較大幅度之調整時，菸品之非法交易也隨之增加，恪遵此等原則可以降低菸品非法貿易之風險。立法院於第八屆會期中(2012-2015)，政府曾提案修改菸害防制法，欲將每包菸之健康捐再大幅提高新台幣20元。然而，社會大眾不斷質疑調整菸稅與健康捐之機制、將前述菸稅與健康捐合併之可行性、健康捐之流向與用途以及市場中“白牌菸”(於某國合法生產但以走私之方式進入他國以規避各項稅捐之菸品)之銷售在台灣持續增長，致國庫承受稅賦損失等原因，前述修正草案於立法院第八屆會期中並未通過三讀程序。

對於捐稅的調整，政府應持續遵守“合理、漸進與可預測”之原則。我們建議，在提出任何立法草案或採取其他措施之前，基於謹慎之要求，對於該措施可否有效地降低吸菸率應進行徹底的評估，同時並應權衡其對整體貿易環境與合法菸草業者之利益所可能造成之影響。

建議二：採行任何菸品管制措施前，應於政府內部及向利害關係人廣泛徵詢意見以避免國際貿易爭端及其他未預見之後果。

部分民間組織與立法委員所倡議的幾項菸品管制措施，例如禁止菸品使用添加物及菸品素面包裝等，可能違反台灣於世界貿易組織下所為之國際承諾而導致未預期之負面後果。舉例言之，在美國與印尼間之某一爭議中，世界貿易組織認定美國禁止銷售以丁香調味菸品之措施，已構成貿易障礙，也因此違反了世界貿易下的技術性貿易障礙協定(Agreement on Technical Barriers to Trade)。在另一個由世界貿易組織審理之案件中，古巴、多明尼加、宏都拉斯與印尼等四國控訴澳洲採取之素面包裝法(Plain Packaging Act)違反了與貿易有關之智慧財產權協定(Agreement on Trade Related Aspects of Intellectual Property Rights)中有關保護商標與智慧財產權之規定及技術性貿易障礙協定。目前，部分立法委員已提案欲禁止於菸草中使用加味料。此一禁令可能導致如同前述2009年的美國禁丁香味菸一案相關的國際貿易爭端再現。為達成降低未成年人吸菸之目標，美國在2009年透過立法禁止於國內銷售丁香、香草或甘草風味之加味菸，印尼遂透過世界貿易組織之爭端解決機制提出控訴，世界貿易組織於2012年4月判定美國之立法違反技術性貿易障礙協定。

此外，並無任何科學證據證明，禁止菸品使用加味料足以降低未成年人吸菸或一般吸菸率，因此，禁止加味菸品無法達到降低吸菸率之公共健康目標。此外，若採行此一禁令，加味菸品之消費者可能經由非法管道購買此類菸品，進而對政府稅收與菸品零售業者之生計造成負面影響。

畜衛

台灣的畜牧業者與獸醫在受到因疾病造成之重大經濟損失的持續威脅下，仍利用現有資源悉心飼養這些經濟動物。然而，疾病帶來的挑戰不斷地在台灣一再出現，其中包含近期爆發的高致命性禽流感(High Pathologic Avian Influenza)、豬流行性下痢(Porcine Epidemic Diarrhoea)、豬環狀病毒感染(Porcine Circovirus Infection)。為了對抗這些疾病，台灣畜牧業者需要盡早獲得所有可能改善的工具，包括常被視為是預防動物疾病最佳利器的生物製劑(疫苗)。

行政院農業委員會(COA)在監督經濟動物的疫苗登記上雖然十分嚴謹，但這些冗長的作業流程常需耗費數年時間才能通過審核，延遲這些新一代疫苗的適時上市，而造成畜牧產業的經濟損失。倘若可解決某些行政步驟，便可加速這些經濟動物疫苗新藥的登記流程。以下為幾點建議：

1. 免付田間效力試驗的原廠書審資料

目前只有少數國家規定在書面審核資料中必需檢附原廠的田間效力試驗報告，而事實上這些產品同時需在當地申請國執行田間效力試驗。於美國與加拿大等國，皆無此規定，故在台灣往往需要等全球其他市場在當地的委託試驗報告，故在台灣往往需要等全球其他市場在當地的委託試驗報告。
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製藥委員會

2015年，台灣政府做了許多政策調整的準備以期符合國際法規標準。為此，政府也廣泛的與利害關係人進行對話並斟酌採納其意見。製藥委員會肯定食藥署於過去一年在準備專利連結與資料專屬權法規制定的跨部會整合及進展，期許在不久的將來能繼續完成後續之法律程序，建立完整的配套機制。健保署在2015年放寬複方藥品專利之認定，及針對3A類四年內之新藥R-zone從3%提高到5%等措施，對於鼓勵新葯盡快引進台灣有正面的意義。然而，新葯在面臨醫院在於利潤的要求以及可能競爭的壓力下，已嚴重影響病患及早接受新葯治療的機會，此一微幅的調整並無法消弭此一困境。相較於衛服部於2015年修訂相關規範給予3A類新葯四年內新葯5%的保護。但委員會仍建議應給予3A類新葯更多保護。尤其需要特別考慮下列具有市場單源性質藥品，建議給予15%的保護：

1. 完成專利連結制度的立法及資料專屬權之修法：
   (1) 建立簡單、明確、永續的專利連結及資料專屬權制度
   (A) 參考美國作法，登錄專利號碼而非請求項，以避免食藥署面臨認定與審核之紛爭。
   (B) 落實專利連結，原開發廠專利到期後才核發學名藥許可證與核准給予價格。
   (2) 擴大資料專屬權適用範圍，包含新劑型與新使用途徑。
   (3) 中央協調跨部會相關法規對於專利權與資料專屬權保護的一致性。

2. 採用廣義的專利定義：藥物具有智慧財產局認定之有效專利(不僅限於成分專利，而是所有專利，包括使用途徑，適應症，劑型，製程，鹽基，晶型，多型體等)均應視同具有專利保護。

3. 鍾對3A類藥品給予合理價格保護：健保署於2015年修訂相關規範給予3A類新葯四年內新葯5% R-zone的保護。但委員會仍建議應給予3A類新葯更多保護。尤其需要特別考慮下列具有市場單源性質藥品，建議給予15% R-zone的保護：

   (1) 具資料專屬權或在藥物監視期內的產品。新葯剛上市這段期間內不會有學名藥。如果因為可能顯著的藥價調整導致該品項無法在台灣上市，將犧牲病人使用該藥的可近性。
   (2) 執行風險管理計畫的品項。廠商為新葯執行風險管理計畫需要投入大量資源，監控藥物上市後安全以減低副作用的影響。這也相對於一定程度上減少了健保的支出。
   (3) 市場單源藥品。雖然其主成分已過專利期，但是因為市場上僅有其單一來源且沒有學名藥可以替代。如果這樣的品項因為顯著的藥價調整而離開台灣市場，將會衝擊病人使用該藥的可近性。
建議二：加速新藥及新適應症之審查及健保給付，確保病患及早使用創新藥品

根據一項研究指出藥品的創新對於延長壽命的貢獻高達73%（Litchenberg et al.），另一項研究顯示，從1980年以來，癌症病患的存活期增加了近三年，而其中83%可歸因於新的治療。製藥委員會相信，創新藥品的引進及使用乃是促進民眾健康的重要因素之一，同時也是政府部門最值得投資的醫療支出項目。

然而根據近期統計，新藥或新適應症之審查時程有顯著之延宕。相較於2013年，2014年食藥署處理新成分及生物製劑新藥查驗登記之天數高達443天（增加35.5%），而處理新適應症查驗登記所需天數亦達314天（增加67.9%）。很遺憾此延宕現象在2015年並未明顯改善，比起2013年，新藥審查天數仍達421天（超過28.7%），新適應症則仍高達312天（超過2013年的66.8%）；製藥委員會深恐此現象持續將嚴重影響病患用藥的權益。

此外，二代健保上路後，新的給付審查系統施行三年來，呈現新藥及新適應症核准率偏低、無預警的審查進度延遲、持續的給付價格偏低等問題。目前新藥給付審查時程平均414天，明顯較一代健保時程更長，尤其癌症新藥審查耗時更久，平均達714天，而且沒有改善的跡象。製藥委員會強烈盼望衛福部/健保署加速新藥引進台灣並提升給付價格，以幫助病患臨床上未被滿足的需求。

建議方案：

1. 改善並加速藥品查驗登記的時程：新藥或新適應症，都能夠以更有效率的流程和執行方式來加速審查。期待2016年能夠達成食品藥物管理署所訂下的審查目標，360天內完成新藥、180天內完成新適應症的審查。我們呼籲食品藥物管理署與醫藥產業業者討論可能的改善方案並且在雙方的共識下設定審核過程的主要里程碑，一起達到審查期程。

2. 加大新藥/新適應症納入健保給付的預算成長：因應未來有更多符合病人治療需求的藥品研發上市，期待衛福部/健保署針對未來新藥/新適應症的收載，提出合理、可預期、可長可久的估算方法，增加編列新藥/新適應症納入健保給付的預算。尤其是突破性的創新藥品，能夠為久候且高治療需求的病人創造出更好的治療效果，更應該建立優先審核程序以便及早納入健保給付。

3. 引進適當的MEA（Managed Entry Agreement）或風險分攤方案，提供不同的藥品更多元的給付選擇：對於相對高價的新藥，建議政府引進多元的MEA或風險分攤方案，給政府更多的彈性空間，和政府分攤合理的風險，以期早日將新藥納入健保。

4. 建立新藥及新適應症審查的合理時程並擴大納入病患意願：委員會建議政府與製藥業界合作建立新藥審查流程每一個環節的合理時程，並提供所有利益相關人透明監督的系統，在此流程中任何一個環節的決策都應該秉持透明公開的原則，包括公開科技評估報告、專家會議和共同擬訂會議的會議紀錄等，也建議政府評估邀請病人代表或病人專家參與審查及決策的過程。

5. 定期與產業界溝通：為促進政府與產業界的溝通，建議食藥署藥物管理署與健保署每季安排與業界溝通，有助於意見交換與政策的推行。

對話，並將重用業界的建議，在價格調整機制上逐步縮小雙方期待的差距。我們呼籲台灣政府與業界繼續保持溝通，以開放的心胸尋求透明、可預期、且更合理的藥價管理機制，以藥費支出目標為例，該方案經過三年的試驗，的確顯現以往的價格調價方式較佳的可預測性，雖然委員會認為該方案在操作層面仍有改善的空間，使藥價調整模式更合理，同時兼顧制度的兼顧制度的永續運作。

我們亦肯定健保署過去一年對改善不當醫療資源浪費的諸多努力。健保雲端藥歷系統自從2013年建置以來成效卓著，不但提升病人用藥安全，亦有效減少重複處方的浪費。相信未來全面推動「醫療資訊雲端查詢系統」後，可更進一步提升醫療服務的效率，也為民眾就醫提供全方位的安全保障。

但除了減少浪費之外，台灣的醫療體系還需要更多的資源投入。2013年台灣國民醫療保健支出（NHE）約9600多億，占GDP的6.63%，同期OECD國家的平均值則為9.3%。若以支出部門來分析，高達41.5%係由私部門負擔（主要為自付醫療保健支出，包括健保部分負擔、自購藥物費用等），公部門的支出僅佔58.5%。遠低於OECD國家的平均公部門支出72%。從以上數據顯示，台灣不但在整體醫療保健方面的支出是偏低的，而且政府部門對醫療保健的投入比例相對不足。台灣的醫療體系還面臨新醫療科技預算不足的問題。近三年來，全民健保年編列約20億預算，以導入新增的診療項目、藥品及儀器。然而在醫療服務以及藥物給付項目及支付標準共同擬訂會議當中，否決新藥及新適應症的阻力往往來自於委員們對財務衝擊的擔憂。這樣的结果就是新增藥品的比率偏低，2009-2016年初台灣的給付生效率約為42%，遠低於OECD國家平均54%。這意味著台灣人民可能必須等待較久的時間，或是必須自費才能接受新藥帶來的益處。

本委員會呼籲台灣政府除了繼續採取有效的措施，減少醫療資源浪費，也必須以更積極的作法重新分配資源，作更妥善的運用。具體建議如下：

1. 加強醫療保健支出，並給予充裕的新藥預算：我們呼籲台灣政府應參考OECD國家的經驗，合理提升醫療保健的支出，特別是增加公部門的資源投入，規劃充裕的新藥預算，以確保未來有更多新的藥品能加入健保體系給付。目前政府部門對醫療保健的投入比例相對不足。台灣的醫療體系還面臨新醫療科技預算不足的問題。民間新藥每年編列約20億預算，以導入新的診療項目、藥品及儀器。然而在醫療服務以及藥物給付項目及支付標準共同擬訂會議當中，否決新藥及新適應症的阻力往往來自於委員們對財務衝擊的擔憂。這樣的結果就是新增藥品的比率偏低，2009-2016年初台灣的給付生效率約為42%，遠低於OECD國家平均54%。這意味著台灣人民可能必須等待較久的時間，或是必須自費才能接受新藥帶來的益處。

2. 以病人照護為中心，加速新藥引進醫院：新藥引進台灣的流程，除了向政府申請藥證及健保給付之外，尚須將新藥列入各醫療院所的藥品處方集（formulary listing），醫師才能開立處方給病患。目前醫院進藥時普遍採取品項“一進一出”的現行規則，意即必須剔除一個現有藥品才能新增一個藥品。這項做法影響病患用藥的權益，有時候數種劑型的藥品只能進一至兩個品項，病人不一定能取得最適合需要的劑量或劑型。台灣政府今年將「使用國產新藥」列為醫學中心醫院評鑑項目之一，凸顯了醫院進藥對新藥上市是很大的障礙。我們呼籲台灣政府應從法規面介入，引導醫院採取具彈性的藥品管理政策，提升藥品的可近性並保障病人用藥權益，建立一個讓醫院管理人員、醫師、藥師的用藥考量都以病人為中心的環境。同時呼籲台灣政府平等對待進口與國產藥品，同時將兩者納入醫院評鑑之指標。

3. 改革支付制度：健保安全準備金已累積至2000多億，財務狀況達到近年來最穩定的狀態，我們建議台灣政府應把握時機積極進行支付制度的改革，合理調整醫療服務支付標準，反映實際臨床醫療成本，給予醫療診療足夠的專業報酬，輔以配套，
使醫院有誘因建立適當的醫護人力，同時讓醫院不需要再透過藥價差的利潤來維持運轉，讓藥品市場更加健全。4.

持續落實醫藥分業制度：

本委員會已持續多年倡議台灣政府應落實醫藥分業。醫藥分業的精神之一是維護醫師處方的自主性，鼓勵醫師處方最適合病人病情需求的藥品，同時也建立機制，促使藥師為處方把關，維護病人用藥安全。然而目前台灣醫院普遍透過進用品項限制和競價，以獲取最大的藥品利潤，即使新藥取得許可證和健保給付，病人還是可能受限於醫院的藥品管理規則而無法接受新藥治療。本委員會認為，當藥品已經列入國家的健保給付項目，醫院不應該藉由獲利與否來限制病人的用藥權益。我們呼籲台灣政府採取行動，落實醫藥分業，消除醫院透過開立藥品獲利的機制，保障病患的用藥權益。

公共衛生委員會

本委員會感謝衛福部過去一年來的努力，在幼兒疫苗接種、癌症篩檢、慢性病防治、健康促進、愛滋病防治等議題上皆有相當高的施政目標達成率，同時與產業界間維持開放的溝通與對話。公共衛生是社會安定和經濟發展的基礎，以預防接種為例，除了有效降低罹病和死亡率，更可以提升學習效果和工作產出，進而支持國家經濟的成長。它是對抗疾病最有力且最具成本效益的措施，對於降低死亡率的貢獻度僅次於乾淨的飲水。

台灣對於預防醫療的投入與其他先進國家相較，尚有很大改進空間。2013年OECD國家之衛生統計顯示，預防醫療的費用平均占醫藥保建總支出的3%，而台灣的預防醫療費用僅占總支出的0.6%，相形之下明顯偏低。台灣的疫苗接種公共支出僅占醫療衛生支出的0.17%，也遠低於韓國和日本(4%以上)。在疫苗接種率方面，以兒童常規疫苗為例，OECD國家平均為95%，台灣為93%；老年人的流感疫苗接種率則差距更大(OECD平均49%，台灣約40%)，顯示仍有進步的空間。有鑑於此，本委員會在此提出以下建議:

建議一、重視預防醫療，提升國家疫苗預算，擴充穩定財源

目前疫苗基金的財務高度仰賴菸品健康福利捐之挹注，來源並不穩定，這樣的財務結構對疫苗政策的推動有很大的影響。以2015年為例，19億的疫苗基金中有六成來自菸捐，國庫公務預算僅支應7億多，占比不到四成；而今年(2016)預算較去年減少6億，主要差異即來自菸捐分配減少了，原本要新增的疫苗計畫只好被迫暫緩實施，十分可惜。

根據衛福部的「2025衛生福利政策白皮書」和「充實國家疫苗基金及促進國民免疫力計畫」，已經通過衛生福利部傳染病防治諮詢會預防接種組委員會(ACIP)決議、尚待導入的疫苗包括:成人肺炎鏈球菌疫苗、子宮頸癌疫苗、幼兒輪狀病毒疫苗、長者帶狀皰疹疫苗等等，推行與否的關鍵均在於預算。這些項目若常規施打，一年所需的公務預算合計新增十幾億，與全民健保一年6千億的規模相較並不算多。疫苗是高報酬的社會投資，不但可以提升健康、省下醫療費用，更是社會發展及經濟成長的動力。根據美國CDC的評估，花費1美元於疫苗，平均可以節省10美元的醫療及社會成本。

國際間的交通往來日益頻繁，強化疫苗接種對台灣民眾的保護有其必要性。隨著國際趨勢與生物科技的進步，不斷有新疫苗陸續問市，為了保障台灣人民的健康，本委員會呼籲台灣政府重視預防醫療，依照衛福部白皮書的規劃，確實增加公務預算，確保疫苗基金每年25~35億元之必要額度，為疫苗基金建立穩健財源，使基金充足並穩定成長，疫苗政策能依計畫時程執行並永續推展，並且預先因應高齡化社會的來臨，提前規畫針對長者的疫苗策略。

短期內若預算無法一步到位，可分階段執行，並依據ACIP會議的討論，考量具彈性的導入機制(例如參考香港四價流感疫苗的政府部分資助模式)，在可得預算內結合民間資源提供疫苗的可近性，將疫苗保護效益發揮最大，提供民眾更完善的防護。

建議二：在實證醫學基礎上提高對癌症防治之投資以降低經濟損失與死亡人數

根據衛生福利部2015年發布之最新統計，癌症連續33年蟬聯國人10大死亡排行之首。事實上，癌症所造成的經濟衝擊也遠大於其他死因。根據國民健康署2010年所發表的一份報告估計，全球因癌症導致的過早死亡與失能所造成的經濟衝擊—不包括直接醫療成本—在2008年時就已高達8950億美元，相當於1.5%的全球各國的國內生產毛額。在台灣，2015年一項發表在《公共衛生雜誌》的最新研究顯示，2012年癌症所造成的經濟損失估算達218億元新台幣，遠高於意外事故之123億元新台幣。此外，該研究也發現，癌症會導致患者平均減少27.5年壽命，並損失7.3年工作年數。

建議三、積極建立國家級肝炎防治計畫

在全球目前有四億人口罹患B型或C型肝炎。於2015年9月，世界肝炎聯盟和世界衛生組織(WHO)聯合舉辦的首次世界肝炎高峰會後共同發表了格拉斯哥宣言，對消除全球死因排名第七位的肝炎，踏出關鍵性的一步。其中明確地列出2030年年目標:包括減少90%慢性B型和C型肝炎的新病例、減少65%B型和C型肝炎導致的死亡，以及慢性B型和C型肝炎感染且適合治療者的治療率達80%；呼籲全球各國政府應盡速建立國家級肝炎計畫，透過致力於預防、篩檢、診斷與治療，最終能消除這個重要的公共衛生議題。

病毒性肝炎及其後遺症為台灣公共衛生的重要議題。在台灣，患有B型(12%)和C型(4.4%)肝炎患者的比率相當之高，估計在台灣有超過300萬的B型和C型肝炎的病毒帶原者。台灣一直是打擊B型肝炎及相關病症的先驅。自1984年起，台灣開始推行全球首創的B型肝炎疫苗接種計畫，並成功地將幼兒的B型肝炎帶原率由原來的10.5%降低至1.7%。同時，透過擴大讓長者和有效的B型肝炎治療，與B型肝炎相關的慢性肝病發症，包括肝癌的患病率也在過去幾年有降低的趨
勢。但控制C型肝炎的患病率仍然面臨著挑戰，包括低診斷率和無法獲得新型治療的低治療率。儘管在過去十年間，從政府補助的篩檢中，僅有30%被診斷出為C型肝炎患者，其中只約有10%的患者接受治療。低診斷率和低治療率必然提高罹患肝炎的風險，社會和醫療的負擔也相對提高。

許多研究已經證實慢性C型和B型肝炎等相關疾病，對台灣社會、家庭、以及患者帶來了沉重的經濟負擔，包括因疾病惡化所增加的相關醫療開支與因不同病程而導致失業等情況。我們強烈呼籲政府依照世衛組織架構進行與全球相應的行動：透過鎖定特定區域和具體的全國性策略來預防、治療、和拯救罹患肝炎的患者。這樣的策略將能有效的幫助對抗疾病，儘管台灣受感染的病患約3百萬人，但仍然有許多未確診和未接受治療的病患。

有效的政策架構，不僅能預防疾病的傳染，更能加強監控疾病傳染和醫療照護，並提高民眾對疾病認知。如此行之，台灣政府可以減少對個人，地區和國家等各個層面因疾病傳染而造成負擔。這樣的發展將顯著的減少全球因B型肝炎所產生的社會及經濟負擔，而最關鍵的下一步便是以全面消除全球的病毒性肝炎為目標。

建議五：擴大抗生素的整合管理以減少抗生素的誤用

即使我們盡心尽力提供完善的預防性照顧，經濟動物仍處於疾病感染的風險中而需要以抗生素治療疾病，而避免抗生素濫用是非常重要的。正如美國食品藥物管理局FDA在其網站上的聲明，“我們都了解，在人類或動物的抗生素使用上，最終皆會帶來抗藥性。”我們鼓勵農委會和衛生福利部將醫療上重要抗生素和醫學上重要的抗生素以不同的方式管理，我們深信對於人類重要的抗生素需進行更嚴格及更頻繁的市抽檢測，除了避免農戶濫用這些抗生素，也同時保護人類安全。而對於不具人類重要性的其他成份，行政院農委會及衛生福利部可降低抽樣頻率，將有限資源作更有效的運用。

不動產委員會

前言

台北美國商會不動產委員會(以下簡稱本會)對於台灣政府近年針對不動產市場所做的努力持續給予肯定及讚揚；如持續提高不動產價格透明度、財產稅制、維持市場公平等積極作為，使台灣不動產市場更能與國際接軌。但本會意識到在市場透明度及公平性不斷進步的同時；我們亦察覺到部分不動產投資及都市發展的政策仍有改善的空間。2015年全球跨境不動產投資額達約2,440億美元；佔全球投入不動產投資的資金總額約三分之一。多數投資人於選擇穩定收益標的物時，偏好選擇高開發及透明度的市場；因此，為了提升估價專業的品質及城市風貌品質，進而提升未來台灣在國際不動產市場的競爭力。

本會於此提出數項政策及法規修正建議，並期望與相關單位進行商討，確保台灣不動產市場的健全及優勢。

建議一：建議房地稅合一新制中針對國內外不動產持有人的稅率統一

2016年1月1日起中華民國政府正式施行房地合一課徵所得稅制度，其影響範圍由為105年1月1日以後交易之房屋、土地，如在103年1月2日以後取得者，係105年1月1日以後取得者，也應依新制規定計算房屋、土地交易所得或損失，並於交易之房屋、土地完成所有權移轉登記日之次日起30日內向稽徵機關辦理申報。其中課稅稅率對境內所有人持有房產一年內出售者，其房地交易所得稅課稅稅率為45%、持有一至二年，稅率則為35%、持有2年至10年稅率為20%、十年以上則為15%。與本國人出售房產所得稅率相比，外資被課徵的稅負相對重許多。

建議二：建議國內外投資人稅率統一；若有擔心房地產炒作的疑慮，建議政府可依循貸款、總量管制等其他方式規範，以確保市場公平性、自由度及流通性。
建議二：推動不動產估價業改革，確保市場公正透明

2.1 建議推動不動產估價業改革，確保市場公正透明

在不動產估價業改革方面，本委員會建議政府應加速推動不動產估價業組織法人化。

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我們堅信，透過共同創造一個透明、經過深思熟慮且一致的法規環境，不僅將有助於保護台灣消費者的利益，同時也將顯著加強對台灣經濟有長遠助益的整體經營環境。

建議一：食品安全法規的制定過程應當透明，並應有科學及統計上的證據基礎

食品安全規範並非零和遊戲，是可以使消費者及食品產業同時受益的。我們理想的食品安全規範是透過透明且可預測的系統，使食品業者易於遵守。

自今年三月起，我們已開始要求政府各部門，應依台灣向世界貿易組織所為之承諾，將其制定與貿易有關之法規，翻譯為英文後上傳。此一做法表現出了台灣遵守國際條約義務的意願以及參與國際協議的決心。然而，食品安全規範的領域裡，台灣仍有許多進步的空間，尤其是在透明度方面。因此我國預備申請加入「跨太平洋夥伴」的時刻，採取使規範更為透明的做法，將對台灣更有利且使台灣的貿易夥伴更為欣慰。

在此一前提下，我們提出以下建議：

a. 食品藥物管理署應逐步地將全部其所認可的檢驗方法翻譯為國際上較廣為使用的語文-英文，以協助廠商符合台灣的法規要求。這可減少進口商及食品藥物管理署檢查員的時間，進而使得國際貿易更有效率。目前除邊境已因不清楚的檢驗參數，已有大量的時間被進口商及TFDA檢查員所浪費。

b. 政府應得依要求揭露檢驗報告及檢驗方法以增加國際貿易效率。

c. 確保與食品相關的規範及標準清楚且可行。以下是幾個欠缺在科學及統計上證據基礎的食品安全規定範例：

1）在未公告的情況下實施檢驗：自去年12月起，農委會即針對進口有機食用油進行塑化劑檢驗。不但未事先公告，也未曾制定可適用於有機食用油的最大殘留標準。因此農委會於邊境針對進口的有機食用油進行塑化劑檢驗，導致數家進口商的有機油品被迫存放於碼頭或倉庫，甚至被退運或銷毀，其中所失經濟成本無可計數。

2）因使用原料而帶入之食品成分的獨特標示要求：台灣食品安全衛生管理法第22條規定，食品成分中的所有次要成分須全部展開並逐一列明。依據台灣衛生福利部的食品藥物管理署對此一標示要求的解釋，即使對於終產品不發生功能，透過原料而帶入食品的次要成分依舊必須列明於成分清單之中。例如屬於可食用油的玉米澱粉，對終產品不發生功能，仍必須標示於台灣的產品上，而台灣食品藥物管理署僅僅排除食品添加物中，因使用原料所帶入之次要成分的標示義務。此一台灣獨有的標示要求，與美國、歐盟及其他主要市場的法規實踐相歧異。以美國為例，如屬食品中的非有意添加物質，含量甚低且不具功能性者，即免除其標示義務。

因為需要耗費大量的時間與資源重新設計標示內的成分清單，此項台灣獨有的標示要求已經造成美國食品業者的重大困擾。此外，在通關過程中，海關官員仍會質問進口公司，並要求解釋食品內的各項次要成分；假使美國的進口商無法提供有關被帶入之次要成分的必要資訊時，進口商可能無法進入台灣，此等現象是否構成貿易的技術性障礙，值得進一步釐清。

3）不合理的法規解釋：當包裹裝食品進口台灣時，由於輸出國法規與台灣法規在數字修整的規範不同，包裹上之輸出國文標示與中文不一致的，然而，食藥署官員在邊境進行查驗時，卻將此種不一致視為該中文標示違反食品安全衛生管理法第28條所谓「易生誤解」，將其打為「不合格」，進而造成進口程序的嚴重延誤。

食品安全衛生管理法第28條所谓「不實、誇張或易生誤解」之立法意旨，本在防止任何企圖欺瞞消費者的情形。但就前述中文與英文標示不一致的情形來看，其並非違反台灣法規之結果，此一差異並未有任何有目的性的誤導或是欺瞞，因此不應構成延誤進口程序的理由。

另外一個例子則是與台灣以食品管理之膳食補充品之規範有關。依現行規定，所有進口之錠狀膠囊式之食品必須向食藥署申請許可作為「有機」進行販售。此一申請程序是以文件審查為主，主要在確認進口之錠狀膠囊是否為有機產品，以及其標示是否符合台灣食品藥物管理署之規定。然而，實際上，許多進口之錠狀膠囊產品，其主要成分並非為有機食品，而係為非有機食品，僅僅因為其外觀具有有機食品之形態，而被要求申請許可成為「有機」。

建議二：政府應鼓勵建立民間企業自我規範的新時代

本委員會長期以來一直倡議建立廣告自律制度來取代現有的政府監管模式。最近的法規發展進一步強化了我們的觀點，主要在確保進口及国内的社區行銷，將有助於使政府施政更有成果並更有效率。

我們觀察到最近幾月有許多關於食品的新法規通過，這些新法規常僅為了立即的回應特定事件，在雜亂無章的情形下訂定，沒有充分分析它們的成本效益或對產業和消費者的影響，也沒有程序透明度和足夠業界參與。若繼續這種治理模式，只會產生更多複雜又「台灣獨家」的法規條例，繼續阻礙產業發展及投資，且在徒勞無功的活動中浪費政府資源，並加深民眾對政府施政效能的不滿。

產業自律的做法實際上是一種共同管理（co-regulate）模式，植根於「關鍵利益相關者」（如政府、產業、消費者和非營利團體等）共同建立產品和服務標準及合作執行管理制度。此模式在先進的經濟體中，在發揮保護消費者權益的功效上，已有可追蹥證明的成功記錄。對於政府部門來說，此模式提供了
在台灣許多行業已開始接受這個理念，而本委員會感到深受鼓舞。產業自律的措施，例如以系統協助確保食品安全、改善化粧品成分的法規、建立明確和穩定的廣告準則等，已經由各類公協會下的委員會和工作小組展開。我們真誠地建議政府認真考慮這種模式的好處，採取實際行動支持業界及其他利益相關者的努力，實現此新的規範模式。

建議三：重新檢視以產品銷售額及資本額大小作為裁罰食品業者的標準

2016年5月12日公布的「食品安全衛生管理法第四十四條第一項罰鍰裁罰標準」，對於違反食品安全衛生管理法之業者，將根據產品銷售額或資本額的高低，以公式計算出應課予之罰鍰。如同本委員會已於年初遞交台灣食品藥物管理署之意見書所指出的，前述的計算因子背離了處罰輕重須視行為人「違犯法律的嚴重程度、受到影響的消費者數目、或因違法所獲得的利益多寡」，而非取決於「該公司財務能力高低」的基本法律原則。

該意見書表示，此一裁罰標準似乎隱含著大規模食品業者可歸責程度更高的意義，但這樣的推定卻無法獲得任何證據的支持。現實上，大型、高資本額的食品進口商、生產商與經銷商，通常擔負著更高的社會責任，可以期待其採取嚴格的管理措施及快速的反應，藉以極小化任何對消費者的健康風險。對此一同樣屬於台灣獨有的規範方式，在台灣經營的業者感到挫折；身為台灣的貿易夥伴，不禁懷疑政府針對遵循國際標準與慣理所作的承諾。

建議四：重新修訂化粧品法以避免形成技術性貿易障礙並推動法規制定透明化

主管機關在1970年初次頒佈化粧品衛生管理條例（以下簡稱「化粧品法」），本委員會歡迎衛福部食品藥物管理署將該條例現代化的計劃。我們呼籲衛福部食品藥物管理署與台灣主要國際貿易夥伴國制定的類似規範互相調和，避免採行一些獨特的法條，導致形成技術性貿易障礙，阻礙台灣加入跨太平洋戰略經濟夥伴關係協定（TPP）。此外，我們也敦促衛福部食品藥物管理署開始披露其決策的評估理由，而非片面引用未公布的內部規範資料。我們茲提供以下建議：

a. 刪除新法案裡特定功能化粧品上市前查驗登記許可的規定。

b. 世界衛生組織專家委員會已於2014年提議將化粧品與藥品區分，建立不同規範程序，有助於減少技術性貿易障礙。我們支持世界衛生組織的建議，推動化粧品與藥品的區分管理。

c. 建議必要な化粧品及藥品的檢查標準應經由國際標準組織（ISO）等國際組織制定，確保國際互惠。

d. 建議化粧品法草案應包含公眾參與機制，讓業界、專家及消費者參與製訂過程，減少技術性貿易障礙的產生。

e. 建議化粧品法草案應包含採行風險管理原則，證明化粧品的安全性及有效性。

f. 建議化粧品法草案應包含採行國際標準，如國際化粧品標準國際聯盟（ISO）及歐洲化粧品標準局（COSMOS）等。

g. 建議化粧品法草案應包含採行國際監管機制，如國家藥物監理局（FDA）及歐盟藥物監理局（EMA）等。

h. 建議化粧品法草案應包含採行國際常規，如國際化粧品法規協會（IFSCC）及國際化粧品標準國際聯盟（ISO）等。

i. 建議化粧品法草案應包含採行國際透明機制，如國際透明機制（ITF）等。

j. 建議化粧品法草案應包含採行國際合作機制，如跨太平洋戰略經濟夥伴關係協定（TPP）等。

k. 建議化粧品法草案應包含採行國際市場機制，如國際市場機制（IMF）等。

l. 建議化粧品法草案應包含採行國際技術機制，如國際技術機制（IT）等。

m. 建議化粧品法草案應包含採行國際法律機制，如國際法律機制（IL）等。

n. 建議化粧品法草案應包含採行國際聲音機制，如國際聲音機制（IS）等。

o. 建議化粧品法草案應包含採行國際財政機制，如國際財政機制（IF）等。

p. 建議化粧品法草案應包含採行國際教育機制，如國際教育機制（IE）等。

q. 建議化粧品法草案應包含採行國際健康機制，如國際健康機制（IH）等。

r. 建議化粧品法草案應包含採行國際安全機制，如國際安全機制（IS）等。

s. 建議化粧品法草案應包含採行國際環境機制，如國際環境機制（IE）等。

t. 建議化粧品法草案應包含採行國際產業機制，如國際產業機制（I）等。

u. 建議化粧品法草案應包含採行國際產業機制，如國際產業機制（I）等。
及漱口水將成為新增之化粧品種類，但相關之化粧品法規
在初制定時，並未將牙膏及漱口水獨特之產品特色納入
考量（特別是，牙膏及漱口水為用後立即漱口吐出之產
品）。委員會敦請衛福部食品藥物管理署採取下列措施以
確保過渡期之平順，並降低對業者及消費者之衝擊：
1).	提供充分及夠長之過渡期-應給予牙膏及漱口水業者
至少五年之緩衝期準備並融入化粧品法規。同時，市
面上之商品應全數予以免責，雖然食藥署已與業者召
開數次之溝通協調會議，但在化粧品衛生管理條例修
正草案正式公布前，業者並無法開始進行評估或投資以更改產品標示
或配方，此問題對於一個自全球各地採購商品、且多
個國家共用產品標籤及配方的跨國企業影響更為巨
大。尤其是若產品配方必須變更時，需要更長的前置
作業時間來完成產品安全性測試。
2).	調和牙膏及漱口水之技術規範及成分標準，以與主要
貿易夥伴之規範一致。目前有關化粧品中禁用成分或
物質之相關法規(例如：化粧品防腐劑成分使用基準
表)，在初制定時，並未將牙膏及漱口水納入考量。
委員會敦請食藥署檢視這些規定，參採已被台灣主要
貿易夥伴國家(例如：美國、歐盟或日本)准用之成
分，加以修訂以更切合採用台灣獨特之標準或限制。

建議三：基因改造(GM)食品原料標示法規
台灣自2014年2月於修正之「食品安全衛生管理法」納入基
因改造食品原料為強制標示項目，且相關標示實施細則已於
2015年5月發佈。其主要規定為(1)非基因改造食品原料非
有意攙入基因改造食品原料超過3%，即視為基因改造食品原
料；(2)直接使用基因改造高度加工原料(於終產品已不含
轉殖基因片段或轉殖蛋白質者)應標示，例如黃豆油、玉米
油、玉米糖漿等。

雖然相關規定已經公布且實施，有部分業者仍疑慮其強制
性及技術性。因此，建議政府於標示細則中強化基因改造食品原料
標示的技術性及可操作性，以減輕業者標示成本。

建議四：擴大再生能源發展
台灣已擁有數座陸上風力發電機組正在運轉，台灣更
展現了發展離岸風力發電的野心，將計劃於2030年，設置總發
電容量4GW的離岸風力發電機組，台灣政府已經通過相關的鼓
勵投資發展方案。目前，已經有數個展示專案正在進行中，而
這些展示專案成功的被執行，已預期將提升全球有意願投資
者的投資意願。然而，亞洲的其他國家，也同時提出離岸風力
發電的計劃，意即，在爭取有意願的投資者進入此一產業的同
時，台灣將面臨鄰國的竟爭。

台灣政府的獎勵投資方案，包含等值於美金8百萬的補助，
以及50%的建造成本融資免稅等。然而，從開發商的態度與看
法而言，相較於其他市場，這些優惠條件，並沒有特別能吸引
開發商的地方。真正的重要的條件，是讓有意願開發的投資者，
能順利並容易地取得離岸風力發電發電場域的建造權。

在資金財務部分，台灣政府應當鼓勵具有官股支持的銀行、
金融單位與基金，直接支持本產業的融資，立竿見影，才能真
正實現台灣政府發展離岸風力發電的決心與願景，如此，才能
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稅務委員會

全球化趨勢以及中國崛起成為世界工廠，讓以效率主導型之台灣經濟成長模式受到了衝擊。經濟動能的趨緩造成貧富差距惡化，工作機會減少，薪資水準亦停滯不前。在新政府於尋找各種方案以重振經濟之過程中，其中應優先考量的項目之一是打造更優質的環境來吸引及留住更多台灣與世界各國的專業人才。稅務委員會與人力資源委員會強調，創造有利於吸引人才的環境，其關鍵在於健全的稅收體制，特別是個人所得稅。如先前之白皮書所述，稅務委員會希望能透過強調有效的稅制改革之必要性，以確保台灣經濟健全與強化競爭力。

建議一：重新檢視現行針對外國營利事業委託我國境內廠商從事製造、加工、測試和組裝並交付與國內外客戶等活動之租稅制度

縱觀台灣的關鍵技術導向型產業，從半導體到電子產品，委託製造加工之經營模式具相當重要的地位。然而，現行租稅制度並沒有為這項重要經濟活動創造有利的租稅環境。目前，僅針對在自由貿易港區從事貨物儲存及簡易加工，且售與國外客戶之貨物超過其當年度銷售總額百分之九十者，得適用免徵營利事業所得稅。換言之，僅有少數企業得受益於此項租稅優惠。大部份台灣的OEM/ODM廠商負責之產品製造、測試，和組裝等通常需要大量加工程序之營運活動卻遭到漠視。另外，財政部104年頒布之台財稅字第10404572310號令明確指出，外國營利事業委託我國境內廠商從事製造加工、測試和組裝並交付與國內外客戶等活動所產生之所得，係屬在中華民國境內經營工商之盈餘，須依規定申報納稅。此函令頒布後立即引起國外企業及國內OEM/ODM廠商之關注。

因此，委員會欲表達之重點如下:

a. 多數台灣受託廠商與外國營利事業係非關係企業，然而財政部解釋函令將其視為外國營利事業之營業代理人，此係強加負擔於台灣受託廠商。實務上，台灣OEM/ODM廠商不代理或代表外國營利事業進行銷售行為，而係僅賺取加工費以及遞逹外國營利事業指示儲存並運送貨品予外國營利事業之客戶，要求台灣OEM/ODM廠商負擔代為申報繳納營利事業所得稅之責任是不合理的。

b. 依前述之解釋函令，外國營利事業委託我國境內廠商從事製造加工、測試和組裝並交付與國內外客戶等活動所產生之所得係屬中華民國來源所得，須依法申報繳納營利事業所得稅。然而，事實上，此做法係要求雇主於第一年為外派員工支付的個人所得稅，於第二年計入該外派員工之薪資所得中再課一次個人所得稅，等於稅上加稅(tax-on-tax)。稽徵實務上要求將外籍員工所收取報酬視為扣繳後金額之「加總還原」(Gross-up)的做法，以及2010年解釋函令要求需將雇主代為支付之個人所得稅視為員工「薪資所得」以致「稅上加稅」(tax-on-tax)的規定，導致跨國公司引進外國高階人才時承擔極高的稅負。以三年之外派合約為例，雇主為調派外籍員工來台所負擔的個人所得稅有效稅率高達77%，且外派期間越長，雇主稅負越高。

若考慮雇主為外派人員支付個人所得稅之營利事業所得稅效果，雇主稅負可能更重，尤其外派人員是調派至提供委託研發服務的台灣營利事業，且該台灣營利事業係以成本加成法向外國關係企業收取服務收入時，雇主尚需就該等外派人員的個人所得稅費用加成認列收入繳交營利事業所得稅，從而稅負更重。

通常為了增加外籍高階人才願意轉調來台的意願，雇主會在跨國調派合約中訂有稅負衡平條款，以確保外國高階人才不會因轉調而負擔額外的稅負成本。若雇主負擔之個人所得稅費用之數額高於台灣營利事業所需繳納之數額，則雇主之稅負將被免除。然而，若台灣營利事業之所得稅負高於外國營利事業所得稅，雇主之稅負將會被扣除。
相關稅收，本國人才更喪失透過外籍專業經理人與專業技術人員傳承知識與經驗的機會。我們籲請台灣政府重新檢討加總還原及課稅上加稅之規定，並設計一套能創造更具競爭力的租稅環境，才能協助跨國公司引進國外高階人才。

2.3 建立吸引高水準專業人士來台的獎勵計畫

租稅優惠措施是吸引外國高水準人才或留住國內人才在台灣工作的重要方法。就此方面，台灣所提供的優惠條件比鄰近亞洲國家少，包括韓國、新加坡、甚至中國。舉例來說，在韓國，外籍技術人員可享兩年期內所得50%免稅的優惠，此外，外籍員工亦可選擇就其前五年國籍來源所得適用18.7%的固定稅率(無任何免稅項目、扣除項目或抵減項目)；新加坡方面，個人邊際稅率僅22%，而中國就外籍員工的實物補貼(例如餐費、洗衣費及子女學費)則不課稅。

此外，台灣外籍人才所能享有的扣除額也較鄰近國家低。舉例來說，子女學費扣除額每年新台幣25,000元，而外籍員工每學期為每名子女支付之國際學校的實際學費，卻可能高達新台幣500,000元。最後，與新加坡及韓國相比，台灣個人所得稅率45%顯得相當高。高稅率加上缺乏租稅誘因，在近幾年已明顯造成外籍高階經理人來台數量減少，並因此影響台灣的經濟成長與產業發展。在此籲請政府在修訂租稅政策時將前述問題納入考量，藉以創造更友善且更具競爭力的租稅系統。

科技委員會

為推動台灣以區域技術中心為方向升級轉型，科技委員會持續著重關注如何使新創創新科技之生態系統之更加健全，使盼藉由完善的系統協助科技術與新創事業研發能在台灣快速開發並成長茁壯，促使臺灣成功轉型為區域科技中心。法規環境及籌資機制是建構一個促進經濟成長的商產業環境所不可或缺的要素，本委員會肯定台灣政府一直以來對協助促進商產業發展的努力，在這方面展現及對科技產業的支持。

在今年的白皮書中，科技委員會探討了我們認為商業環境可再改善提升產業環境的機會。我們相信，積極推動新創事業、賦予科技產業員工更多彈性自主調配時間，以及重建台灣在資訊基礎建設的領先地位等，都是台灣政府在制定政策方面時應列為優先考量的項目。我們對於這些議題都在以下的建議中詳述如下：

建議一：強化臺灣的新創事業生態系統，以維持臺灣在科技方面的領先地位

當全球消費者的消費支出對象由產品快速地轉變為內容與軟體，台灣維持其作為區域科技中心的領先地位，成為一個比過往都要重要的議題。台灣應該持續專注在分配資源，為科技新創事業創造友善的商業環境，以加速島上多元且創新的技術之發展。

基於政府日漸重視科技新創事業之重要性，臺灣在全球的新創事業生態系統之定位是一個相當重要的全國政策議題。本委員會對科技部及其他政府機關近來對於促進新創事業所做的一切努力表示讚許，包括創立許多創投基金、支持許多鼓勵新創事業的措施、及設立「創櫃板」等。

科技新創事業對臺灣未來發展相當重要，吸引外國企業在臺灣設立科技新創事業亦可加速這個環境的發展，擴展技術且使科技產業更加多元化。外國新創事業對於讓臺灣成為亞洲科技產業的領導者可作出許多貢獻，包括培育本土人才、提供專門知識、創造就業機會，協助發現下一個明星產業，建立與外國事業合作的橋樑等。

台灣目前的科技基礎建設、工程人才、對智慧財產權之保護，及地處亞洲的中心點(鄰近中國)等都是外國新創事業選擇來臺灣投資的原因，針對如何使臺灣更能吸引外國科技新創事業，本委員會提出以下建議：

a. 放寬對於事業在臺灣註冊型態的限制。依據目前法令，外國事業惟有以臺灣認可的註冊型態如有限公司、股份有限公司等來台設立公司之方式在臺灣設立事業體。這個限制排除了許多在國外常見的投資型態，如一資合夥、有限合夥，有限責任合夥，商業信託，法定信託，及其他方式，使得臺灣錯失許多投資機會。

b. 釐清公司章程中對於股東權利及限制之條件。在科技新創事業相當普遍的美國與其他國家，股東們通常可以自行協商有關股東權益的條件，不同股東依據他們的投資情形、投資價格及其他因素而享有不同權利。臺灣法律並未明白規定股東間在不同股份間究竟享有如何不同的權利或受到如何不同的限制。

c. 放寬外資事業有關聘用外國人為主管之限制。依據現行有關聘用外國人之法令，外資事業要聘用外國人為經理或主管，必須符合以下條件：(1)實收資本額或在臺營運資金達新台幣五十萬元以上；(2)營業額達新台幣三百萬元以上。進出口實績總額達美金五十萬元以上或代理佣金達美金二十萬元以上。外資事業要聘用外國人從事專門或技術性工作，聘僱一位以上的外國人，或發展工作許可時，所受到的限制更多。期待一個科技新創事業在設立前幾年即有營業額是相當不切實際的，因為科技新創事業的目的在於投資研發，而這樣的投資通常數年內是不會有回收的。然而外國專業人士在他們專門領域的技能與經驗正是科技新創事業所最需要仰賴的。

d. 放寬定期勞動契約的限制。勞動基準法只有在明訂的例外情形下，才允許雇主與勞工簽訂定期勞動契約。雖然這樣的限制式為了保護勞工的權益，這樣的政策對於科技新創事業是一個阻礙，因為科技新創事業在設立初期，尤其需要依賴研發進程調整聘僱人員，而研發的進程與發展是常難以預料的。

e. 放寬對於外資事業的經營管理及對外國人的條件享有彈性，因為科技新創事業對於聘僱外國人的條件需要享有彈性，以便其能依據研發進程及事業當時的需求加以制訂或調整。

f. 降低稅賦。公司營收如果沒有達到稅收的最低標準，就會受到稅務機關強大的稽核壓力。然而科技新創事業通常必須經過相當長時間，在研究發展、產品發展及市場滲透率達到一定規模後才能獲利。在設立前幾年沒有獲利可能完全符合管理階層對公司的長期規劃，而非逃避稅捐。

g. 提供資金吸引創投事業到臺灣投資。臺灣的創投事業發展在資訊產業泡沫化前其實相當穩定。現在，政府需要採取措施鼓勵外國創投事業在臺灣投資。無論是外國或本地的創投事業，都是對新創事業發展有重要影響的因素。韓國就比臺灣要更積極且成功地促成許多具規模的創投事業在韓國投資。本委員會呼籲政府應該瞭解上述問題，採取具體措施移除這些障礙，以使臺灣成為對科技新創事業更友善的環境。

建議二：檢視勞動法規對科技業競爭力的影響並從產業別適用性研議與調整

台灣科技產業在全球市場競逐，向來以彈性和速度為主要
競爭優勢來源，近年來網際網路、雲端運算、行動應用等技術演進快速，加上隨著科技進化而衍生的破壞性商業模式創新，大幅顛覆科技公司的營運模式，多元而彈性的人才需求十分殷切。反觀台灣勞動法規，包含已頒布修訂的勞基法、勞動派遣法草案、和實施有年的定期勞動契約規定等，不僅降低科技業所需的人力需求彈性，對科技人才也造成無所適從的負擔，未根據科技人才工作情境制定合宜的規範，可謂雙輸的局面。

此外，台灣在此一波技術進化浪潮中，國內外專業科技人才缺口大，礙於法規國外人才引進困難；加上台灣市場規模小，薪資、升遷因應等因素，本土優質人才外流嚴重，更是對亟需轉型的台灣科技產業雪上加霜。

本委員會提出下列構想以期改善現狀：

a. 賦予科技業工作時間更多彈性並取消出勤紀錄。

b. 放寬定期勞動契約之規定。

c. 修正派遣勞工保護法草案。

建議三：加速“資訊基本法草案”立法審查程序

資訊應用已為各國政府重視議題，然台灣政府卻未設置足夠層級組織整合國家資訊發展策略，以至於不易協調整合因應雲端、大數據以及物聯網所需要之跨部門資源應用與發展。反觀鄰國均設置部會層級專責機構確保該國資訊應用發展，如韓國設有“科技、資訊與未來部”，新加坡設“通訊與資訊部”，大陸亦設有“工業和信息化部”。

政府自民國八十七年起，全面推動資訊委外政策，縮減政府機關之資訊部門人員數量。資訊委外為全球趨勢，其優點可讓機關專注在核心業務上，將較不具附加值、複雜性高、或需經濟規模的業務，可有效降低資訊管理成本。然而此一美意在執行過程中，卻因資訊的重要性日益提高、業務量日增而隨之調整增加人力的比例，導致部分資訊單位無法兼顧，由技術向行政採購傾斜，因而逐漸流失核心業務的規劃能力、風險管理能力，甚至資訊安全控制能力。

現今我國政府機關資訊人力比(資訊員額/機關總員額)為1.5%，然而引領資訊委外風潮的美國，其聯邦資訊人力比仍維持在4.9%，並得以資訊外掛為其資訊服務產業之競爭優勢。台灣政府資訊預算佔公務預算總預算之比率由民國93年之26.84%降至54年之6.08%，呈現逐年下降之趨勢。而反觀美國資訊預算，自1981年至2014年則呈現逐年緩步上升，至2014年美國聯邦政府資訊預算佔總預算預算之比率已為2.17%。

上述現象使得民間資訊產業因政府在規畫階段需求不明確，不合理之預算規模與需求變更…等，讓專案管理困難度與成本大幅增加，造成民間台灣資訊產業成長率每年均成長速率。因此我們建議中華民國政府應加速審查“資訊基本法草案”，設置部會層級專責資訊主幹機構，明確資訊部門在機關內之定位，政府重大建設需經資訊應用影響評估，參考國際客觀數據訂定我國資訊預算比率及資訊人員配置比率。

建議四：建立政府資料監管制度有效運用雲端資源

政府自民國八十七年起，全面推動資訊委外政策，縮減政府機關之資訊部門人員數量。資訊委外為全球趨勢，其優點可讓機關專注在核心業務上，將較不具附加值、複雜性高、或需經濟規模的業務，可有效降低資訊管理成本。然而此一美意在執行過程中，卻因資訊的重要性日益提高、業務量日增而隨之調整增加人力的比例，導致部分資訊單位無法兼顧，由技術向行政採購傾斜，因而逐漸流失核心業務的規劃能力、風險管理能力，甚至資訊安全控制能力。

廣泛使用雲端運算對台灣政府可以實現更大的計算能力，更高的可用性和資料恢復備援能力，以及可透過較低成本，達到更高安全性。最重要的是可透過雲端服務之可擴張( scalable)、與隨選(on-demand) 特性，幫助政府組織聚焦在關鍵公共事務。除了節約成本之外，雲端服務將創造就業機會，實現公民社會運用資訊之普遍性，並且增加政府服務的靈活與敏捷性。

在導入雲端運算過程中，政府機敏資料與國家主權等議題都經常被提出討論與關注。我們發現唯有透過充分落實資料分級與資料監督管理政策，訂定哪些政府資料適合或不適合使用雲端服務，並導入安全機制與相關科技，方能確保政府資料安全。

資料分級建議定義了五種不同等級的政府資料，其中每個等級都賦予具體的技術保障和存取方案建議。如同下列框架，政府可考慮將“等級一”的高機敏性資料放置於本地機房；但是也指出其他等級之政府資料，在適度安全管控與雲端技術設定下，將適合放置公有雲端空間，享受雲端服務所帶來的各種好處。
產業優先議題
等級二
需管制的資訊，且嚴重限制存取的資訊，如執法調查資訊、敏感個人識別資料(PID)及び被限制的健康資訊等，大量的儲存於政府雲，且在政府雲管理的公有雲

等級三
政府日常存取的資訊，如常規存取的政府雲包資訊或經濟資訊，適合存放於政府雲的公開雲

等級四
無資料原始來源的資訊且被限制的公開雲

等級五
沒有限制且可公開取得或使用的資訊

透過採用資料分級和管理框架，並從安全和技術角度評估資料儲存策略，將能夠得到雲端運算之最大效益。根據需求或特性進行資料分級，並充分了解滿足這些需求或特性的技術解決方案，將有助於政府迅速過渡到雲端服務之全新資料儲存形式。

當前國際趨勢建議政府應依據政府部門或機關需求，制定合適的政策和做法：包括強調對政府最敏感的國家安全相關的訊息進行特殊處理，或將資料於雲端儲存，尤其在完成雲端數位化轉型後，實體政府內部的數位化和雲端化為政府部門或機關提供了一個良好的基礎。同時，政府應繼續強調對數位化和雲端化的投資，以確保資料的安全和有效管理。

建議五：透過動態頻譜存取技術，增進無線通訊的使用量與使用效能

無線通訊的爆炸性的增長，不僅源自傳統消費電子設備和人們之間的通信，更來自物聯網的發展。這樣的增長造成各種形式無線通信的特別的壓力，需要更有效的方式來管理和利用頻譜資源。在全球加速採用頻譜共享技術和政策，其中允許未使用的廣播電視頻道(所謂的“TV白色空間”或TVWS)，透過非執照特許或共同使用方式，以動態頻譜接入(DSA)就是一個可行的技術和政策。

動態頻譜存取技術屬於透過新興技術，將暫時閒置的頻譜做有意義的發射，或在不影響其使用效能的情況下，將頻譜重新分配給其他使用。而這種方式在確保頻譜的使用效率和靈活性方面具有很大的優勢。

建議：透過動態頻譜存取技術，增進無線通訊的使用量與使用效能

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建議五：透過動態頻譜存取技術，增進無線通訊的使用量與使用效能

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動態頻譜存取技術屬於透過新興技術，將暫時閒置的頻譜做有意義的發射，或在不影響其使用效能的情況下，將頻譜重新分配給其他使用。而這種方式在確保頻譜的使用效率和靈活性方面具有很大的優勢。

建議：透過動態頻譜存取技術，增進無線通訊的使用量與使用效能

透過採用資料分級和管理框架，並從安全和技術角度評估資料儲存策略，將能夠得到雲端運算之最大效益。根據需求或特性進行資料分級，並充分了解滿足這些需求或特性的技術解決方案，將有助於政府迅速過渡到雲端服務之全新資料儲存形式。

當前國際趨勢建議政府應依據政府部門或機關需求，制定合適的政策和做法：包括強調對政府最敏感的國家安全相關的訊息進行特殊處理，或將資料於雲端儲存，尤其在完成雲端數位化轉型後，實體政府內部的數位化和雲端化為政府部門或機關提供了一個良好的基礎。同時，政府應繼續強調對數位化和雲端化的投資，以確保資料的安全和有效管理。

建議五：透過動態頻譜存取技術，增進無線通訊的使用量與使用效能

無線通訊的爆炸性的增長，不僅源自傳統消費電子設備和人們之間的通信，更來自物聯網的發展。這樣的增長造成各種形式無線通信的特別的壓力，需要更有效的方式來管理和利用頻譜資源。在全球加速採用頻譜共享技術和政策，其中允許未使用的廣播電視頻道(所謂的“TV白色空間”或TVWS)，透過非執照特許或共同使用方式，以動態頻譜接入(DSA)就是一個可行的技術和政策。

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信事業法、無線廣播電視事業與頻道事業管理條例、有線多頻道平臺服務管理條例，以及電子通訊傳播法等五部法律草案，將取代現行穀倉式的垂直管制架構，代以水平式管制架構，即基礎網路層（電信基礎設施與資源管理法草案）、營運管理層（電信事業法草案）、有線多頻道平臺服務管理條例草案、無線廣播電視事業與頻道事業管理條例，及內容應用層（電子通訊傳播法草案）。

匯流五法草案的內容息息相關，理應一併受外界檢視與討論。然而，五法草案並未同時對外公布，而是於2015年11月16日到12月14日兩個月當中，以約隔12天公布一個法案的方式，陸續公布五部匯流法草案。顯見NCC於對外公開匯流法草案時，仍在討論其餘匯流法草案。

更令人失望的是，NCC僅提供非常短的時間供相關人士檢視並提供意見。以電信基礎設施與資源管理法與電信事業法為例，兩法草案均於2015年12月14日對外公布，但NCC隨即於12月21日舉行說明會，並要求相關人於12月22日以前提供意見。換言之，兩法草案公布後，NCC並未進一步進行公開聆聽討論外界所提出的意見，也未因為外界提出建議而修改匯流法草案的內容。

除缺乏正當程序外，匯流法中草擬的管制架構亦有疑慮。有線多頻道平臺服務管理條例草案中，將有線電視服務定義為多頻道平台服務，屬於特殊電信服務。電信服務則定義為電信業者於「電信網路」上所提供之服務。然而，NCC於電信基礎設施與資源管理法草案中，係以現行電信概念來定義「電信網路」，忽略有線電視網路與電信網路兩者間本質上的差異。一個可能引發混淆的例子是，電信基礎設施與資源管理法草案中要求「電信網路」必須確保用戶的通信秘密，但有線電視網路因未提供通信服務根本無法達成該法律義務。

此外，NCC忽視OTT跨境服務已形成新興影音服務，並與有線電視業者高度競爭的現象，但NCC仍未將OTT納入匯流法管制，造成影音服務市場的不公平競爭。

匯流法草案呈請行政院前，如果能提供外界充分的諮詢時間，並且重視公眾與產業所提出的建議，其中可能缺失應可被有效指出並且妥善修訂。

有鑑於五部匯流法草案對數位匯流與產業環境將產生重大衝擊，我們敦請NCC及/或行政院應邀請各方團體，包括其他政府機關、學者、通訊傳播產業等，針對匯流五法草案提供更完整的諮詢意見，並且應舉辦更多場次的公開聆聽，以廣泛收集各界完整意見。最重要的是，NCC及行政院應該傾聽各方建議後，擷取其中合宜的意見整合於草案當中。

運輸與物流委員會

台灣向來被認為是鄰近區域中最具物流與國際貿易戰略地位的地區之一。本委員會了解相關主管機關在過去數年，一直努力建立一個對產業更便利的法規環境，但我們也認為台灣有關於運輸與物流的相關法規，仍能進一步佤佤佤木佤，穩定且更有可預測性的方向調整。就此，我們期待主管機關可以注意以下問題：

建議一：建立通關單位單一窗口平臺，促進通關透明化，增進通關效率

海關自2013年起已建立通關單位單一窗口資訊平台，相關通關主管機關均陸續加入此一平臺；然而，各通關主管機關對於申請案件的透明度與通關速度規定顯然不同。

在過去兩年間，本會的務實與國際貿易委員會（目前已加入運輸與物流委員會）建議修訂貿易法第四章，納入自我揭露機制。進行自願揭露者可獲得減輕刑事處罰。我們建議NCC與相關主管機關審慎考量自我揭露機制的設置與實施。
台灣觀光市場近年蓬勃發展，不僅在整體觀光流量或是高端市場（例如會展商展旅遊MICE、西方休閒旅遊群）都有驚人成長的表現。因此，台灣需要引進更多具專業的外籍觀光業人才以提升服務層級及管理績效到國際水準。此外，旅客人數增加，造成人力需求激增，台灣必須引進世界頂尖的觀光旅遊專才以發展訓練本地人才，更積極與世界級的餐旅學校展開合作關係。這些國際級的餐旅學校在臺灣的存在有其必要性，不僅僅提供年輕一代教育機會，更提供了他們進入餐旅服務業，包括零售、運輸、旅館及餐廳等工作機會。我們期待政府能鼓勵及推動領域中的專業培訓機會的建置。

本委員會建議：
• 鼓勵與教育部合作建立一套世界級的餐旅學校培訓體系以吸引更多人才進入台灣餐旅業工作，這些國際關係將協助台灣變成全球公認可舉辦MICE和企業商務活動的的舞台。

建議二：投入更多努力與資源發展臺灣MICE旅遊產業

MICE相關旅遊在各國入境旅遊中都扮演了重要角色，因為MICE能夠帶動成員的旅客來訪與高額觀光收益。台灣位於亞洲地區中心，這樣的地理位置十分有利於成為MICE的目的地，但是台灣缺乏具代表性規模的會展遊設備，也缺少政府優質的獎勵機制，導致台灣難以成為國際大型MICE活動的舉辦場地。綜合以上原因，台灣的MICE市場在競爭力上疑焉。在MICE產業的建立與推廣上，需要透過特殊管道與專業知識的配合，因此許多國家藉由會展局來促進與管理MICE相關事務。委員會十分樂見於台灣建立了專屬MICE的入口網站：Meet Taiwan，此網站是由國際貿易局所贊助，執行單位則是中華民國對外貿易發展協會（TAITRA）。Meet Taiwan辦公室在會議、大會、研討會等各種型式的會議投標中都提供了有效的支持。

然而，私人企業在吸引國際各類型會議到臺灣舉辦的過程中，幾乎還是要靠自己完成。我們了解，原因在於相關的政府部門，例如日本、台灣、泰國與香港，台灣在MICE市場中屬於弱勢。

事實上，許多國際主題娛樂設施開發商都曾來台探路，例如米高梅（MGM）及派拉蒙（Paramount），了解進入台灣市場的可行性，但最後卻都無疾而終。我們了解這些開發商遲遲不願進入台灣市場的原因，主要是缺乏政府政策支持、預期土地取得的困難度太高，以及執照取得過程冗長。如果台灣希望趕上近年亞洲觀光熱潮的列車並抓住伴隨而來的經濟利益，我們強烈建議政府考慮以下幾點：

a. 對土地取得提供協助 — 目前在台灣，多數具規模的土地都為國營事業（例如台糖）所擁有；這些土地不是閒置，就是利用度低，因此無法為台灣創造可觀的經濟利益。我們建議政府採取相關政策，讓國營事業閒置的土地可用長期租賃的方式，提供主題娛樂開發使用，其租賃價格也應設定在有競爭力的範圍。

b. 建立透明且有效率的開發及核發執照過程 — 我們建議政府考慮向國際知名的主題娛樂開發商請益，了解他們在其他國家開發過程中所學習到的經驗，以便藉此建立一個有效率的申請流程，吸引世界一流的開發商。
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