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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, TaiLung Motors, TaiMing Motors, BinHang Motors, Yu-Bin Motors, Lienli Motors, ChungChang Motors, BinHong Motors, and Supreme Motors are in charge of Mercedes-Benz passenger cars and Mercedes-Benz Select used cars. Yue 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.

台灣賓士股份有限公司(Mercedes-Benz Taiwan Ltd.) 成立於2002年1月，是汽車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括Mercedes-Benz乘用車與重型商用車、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、裕賓賓士、賓泓賓士、賓航賓士、裕賓賓士、聯立賓士、中彰賓士、業務於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、裕賓賓士、聯立賓士、中彰賓士、業務於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、裕賓賓士、聯立賓士、中彰賓士、業務於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、裕賓賓士、聯立賓士、中彰賓士、業務於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、裕賓賓士、聯立賓士、中彰賓士、業務於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、裕賓賓士、聯立賓士、中彰賓士、業務於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、裕賓賓士、聯立賓士、中彰賓士、業務於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、裕賓賓士、聯立賓士、中彰賓士、業務於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、裕賓賓士、聯立賓士、中彰賓士、業務於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、裕賓賓士、聯立賓士、中彰賓士、業務於台灣賓士之授權經銷商。
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FOREWORD

Publication of the Taiwan White Paper each year at this time represents the end of one advocacy cycle for AmCham Taipei and the start of a new one. The timing is thus appropriate to look back at the 80 issues presented by the Chamber’s committees in the 2016 White Paper to assess how much progress has been made toward resolving them.

Unfortunately, this year’s tally shows that not a single committee-level issue has been rated as entirely solved – only the second time that has happened (the first was in 2012 for the 2011 White Paper) since AmCham started tracking such results in 2007. On a more positive note, eight of last year’s suggestions to the Taiwan government were rated by the relevant committees as showing good progress in the form of “satisfactory follow-up.” In addition, one crucially important Chamber-level suggestion was adopted and implemented by the government – extension of the notice and comment period for new regulations from a mere 14 days to 60 days. The deep potential significance of this change is described in more detail in the Overview section of this volume.

The eight issues rated as demonstrating favorable progress are:

- **BANKING:** Allow banking staff to take charge of “bond agency” and “derivative information and advisory” functions concurrently.
- **INFRASTRUCTURE:** Adopt new Demand Side energy-management technologies and provide greater support for offshore wind farm development.
- **PHARMACEUTICAL:** Continue to strengthen IPR protection for innovative products, so as to ensure that the investment environment rewards innovation.
- **PUBLIC HEALTH:** Actively implement a national program for the prevention and control of viral hepatitis.
- **REAL ESTATE:** Simplify the urban renewal process to ensure housing safety and quality.
- **RETAIL:** Drop plans to penalize food-safety violators according to their amount of capital.
- **SUSTAINABLE DEVELOPMENT:** Scale up and accelerate development of renewable energy in general and offshore wind power in particular.
- **TOBACCO:** Consult with the public before making any drastic changes in tobacco tax policies.

AmCham Taipei hopes that continued substantive progress will be made in these areas in the months ahead. For example, legislation has already been drafted to address the Pharmaceutical issue by creating a Patent Linkage system to protect the intellectual property of drugs that are under patent in Taiwan. The bill has not yet been enacted by the Legislative Yuan, however. Once that happens, this issue – which has been in the Taiwan White Paper for more than a decade – can finally be marked “solved.”

We also hope that a year from now the success rate for the 83 issues in the 2017 Taiwan White Paper can set a new high, clearly demonstrating the Taiwan government’s determination to reform the regulatory system and inject new vigor into the domestic economy.
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A Cloud for Global Good

We live in an amazing time when technology is changing almost every aspect of our lives – at breathtaking speed.

Advances in healthcare, education, communication, and productivity have increased life expectancy around the globe and helped lift hundreds of millions of people out of poverty and into the middle class.

For many, the ability to connect to the people we care about and the information we’re looking for instantly from any location is so commonplace that we already take it for granted.

Now, with the advent of cloud computing, we’ve arrived at the beginning of an era of even more profound transformation. A new generation of technology innovation is delivering capabilities that promise new ways to expand access to economic opportunity and address some of humanity’s most pressing problems.

However, the cloud is creating disruption in other ways as well. People question the safety of their community, the sustainability of their job, and the future prospects of their children. There are deep concerns about whether and how this technology can be used to benefit everyone, rather than just the fortunate few. Clearly, we’ve reached a critical crossroads where we must rethink how people interact, companies conduct business, and governments protect public safety, manage economic growth, and deliver services.

From Horses to Cars

There are echoes of our current era of technology-driven change in a pair of photographs taken in New York City in the early part of the last century. The images are of the Flatiron Building viewed from across the intersection of Broadway, Fifth Avenue, and East 23rd Street, and they are strikingly similar except for one important feature.

In the first image, taken in 1905, the primary mode of transportation is equine – horses haul carts laden with freight, horse-drawn carriages convey people, and horse-drawn cabs sit curbside waiting for fares. In the second image, taken 20 years later, not a single horse can be seen. Instead, a long line of automobiles snakes down Broadway, parked cars jam the curbs, and a stretch of pavement in front of the Flatiron Building has been converted to a parking lot.

What happened in between was a period of profound transformation and disruption. In 1905, it took more than 100,000 horses to move goods and people through New York City. Tens of thousands of people were employed feeding and cleaning up after them. Thousands more worked as blacksmiths, wheelwrights, saddle-makers, and carriage builders. Nationwide, one quarter of the country’s agricultural output was dedicated to growing crops to feed horses.

Two decades later, a new form of horsepower predominated. The result was fueled innovation that gave rise to new industries, generated vast numbers of new jobs, and transformed the economy. But it was also a 20-year span that saw the end of a generations-old way of life and the dawn of a new kind of society – not just in New York but in cities around the world. During that time, entire categories of work that had provided a good living for people for centuries all but disappeared.

A Technology Revolution for All

The emerging realities of a society that suddenly moved at the speed of cars rather than the trot of horses meant that new laws had to be enacted, new infrastructures built, and new social norms developed.

At Microsoft, we are fundamentally optimistic about the future. But we also recognize that the cloud must be used to drive societal and economic benefits. What’s needed is a balanced set of policy and technology solutions that will promote positive change and ensure that the benefits of cloud computing are broadly shared.

We believe that to achieve this change, we must work together to create a cloud that is trusted, a cloud that is responsible, and a cloud that is inclusive. In other words, we must work together to create a cloud for global good.

The publication of a book by Microsoft titled “A Cloud for Global Good” was launched in October 2016. The document has been designed as a roadmap to help policymakers take full advantage of the transformational benefits of the cloud. The book offers a set of 78 recommendations in 15 policy categories that will provide the foundation for a regulatory environment that leads to a trusted, responsible, and inclusive cloud.

In addition, we share examples of how the cloud is already transforming the way governments engage with citizens, how businesses become more productive, and how nonprofits deliver more effective services.

At Microsoft, our mission is to empower every person and every organization on the planet to achieve more. As we seek to realize this mission, we could not think of a more important time to convene a discussion and encourage governments, industry, and civil society to work together to realize a true cloud for global good.

To learn more about “A Cloud for Global Good,” please go to: https://news.microsoft.com/cloudforgood
這個神奇的時代，科技正以令人目不暇給的速度，幾乎全面性地改變人類的生活。

醫療、教育、通訊和生產力的進步，提高了全球民眾的平均壽命，更幫助數億人脫離貧困，躋身中產階級。

許多人能在任何地點與關心的人聯繫，並且立刻找到想要的資訊，這個現象非常普遍，我們早已習以為常。

如今，雲端運算的出現讓我們步入嶄新的時代，迎來更深的變革。新一代的技術創新帶來新的方法，可望拓展更多經濟的機會，處理人類面臨的若干迫切問題。

然而，雲端也在一些方面造成破壞。人們懷疑社會是否安全，工作能否持續，也在擔心孩子的前途。如何才能避免雲端技術服務少數的幸運兒？它能否以及如何才能造福所有人？顯然，我們已經來到一個關鍵的十字路口，必須重新思考人際互動、公司經營以及政府保障公共安全、發展經濟和提供服務的方式。

從馬車到汽車
兩張拍攝於上世紀初紐約的照片，其背後隱含的趨勢，跟當今以科技帶動變革的時代互相呼應。兩張照片都是從百老匯、第五大道和東23街交界處的熨斗大廈對面拍攝，兩個畫面非常近似，但有個顯著的差異。

第一張照片攝於1905年，當時主要的交通工具是馬車：裝滿貨物的馬車、載客馬車、在路邊候客的出租馬車。第二張照片拍攝於二十年後，畫面裡已經看不到馬，取而代之的是一條沿百老匯蜿蜒而行的汽車長龍，路邊停滿了車，熨斗大廈前的一段人行道也改建為停車場。

在這兩張照片相隔的二十年當中，社會發生了深刻的變革和動盪。1905年，紐約市需要10萬多匹馬投入人員和貨物的運輸。數萬人受僱餵養馬匹和清洗道路上的馬糞。此外，城裡還有幾千名鐵匠以及製作車輪、馬鞍和馬車的工人，全國四分之一的農業產能用來生產餵養馬匹的農作物。

二十年後，一種新形式的馬力成了主流，這個結果推動了創新，促使多個新興行業興起，創造了大量就業機會，也改變了經濟結構。在這二十年間，不僅是紐約，全球很多城市世代相傳的生活方式土崩瓦解，新型社會開始出現。此段期間，許多幾個世紀以來曾讓人們豐衣足食的行業類別幾乎整個消失。

席捲每一個人的技術革命
當一個社會的運行由馬蹄的速度驟然提升至汽車的速度，必然需要制定新的法律，建設新的基礎設施，並確立新的社會規範。

微軟基本上對未來抱持基本樂觀的態度，但我們也體認到，雲端技術必須用來驅動社會與經濟利益，我們需要一套平衡的政策和技術解決方案，促進正面的變革，並確保雲端運算的成果為大眾所共享。

我們認為，要達成這種變革，必須齊心協力，共同打造一個可信、負責和包容的雲端。換句話說，我們必須攜手合作，開創惠及全球的雲端世界。

微軟於去年十月出版”雲惠天下”一書，目的在為政策制定者提供藍圖建議，幫助大家充分利用雲端的革新優勢。我們針對15個政策領域提出78項建議，相信可為打造可信、負責和包容的雲端所需的法規環境提供基礎。

此外，書中還分享了一些實例，說明雲端如何改變政府與公民互動的方式、企業如何提高生產力，以及非營利機構如何提供更有效率的服務。

微軟的使命是幫助在這個地球上的每一個人和每一個組織，都能貢獻更多，成就更大。為實現這一使命，現在正是群策群力、集思廣益的重要時機，期盼政府、業界和公民社會共同合作，打造真正惠及全球的雲端世界。

欲詳閱更多”雲惠天下”內容，請至: https://news.microsoft.com/cloudforgood/
醫學科技 關懷生命的每一刻

全球首屈一指的專業醫學保健專家，以多元化商品服務，落實全生命關照，時時用心，面面俱到。
Head Chef Ko Kang-fei is taking the menu at The Sherwood’s Yi Yuan Chinese Restaurant south to Sichuan and Southeast Asia to deliver bold, sweet and spicy, and tart flavors. Fusing ingredients and cooking techniques from both East and West, Cantonese, Sichuan, and Thai cuisines, Chef Ko hopes that you will enjoy these daring flavors with friends and family as you while away the hot summer months. Yi Yuan also offers a sophisticated private dining venue for exclusive networking, with a menu tailored for business and leisure entertaining.

Here is just a sampling of the dishes that Chef Ko has prepared for you:

**Spicy Lamb: Chuan-flavored Lamb Chops**

Featuring a thick lamb chop rarely seen in Chinese cuisine, bathed in a spicy sauce of Shaoxing wine and red and green peppers, this dish embodies the adventurous new direction of the menu. The lamb chops are slowly pan fried and then baked while drenched in Chef Ko’s special wine and pepper sauce. You’ll need a knife and fork to eat these tender, medium-rare chops, but the peppery sensation that lingers on the palate is unmistakably Sichuan.

**Citrus Crispy Chicken**

Chef Ko’s Citrus Crispy Chicken fuses Cantonese cooking techniques with Taiwanese and Thai seasonings and spices for tender meat and crispy skin that is delectably light, fresh, and tart. The chicken is first bathed in salt, garlic, spring onions, and ginger seasoning, and then soaked in vinegar before being air-dried for 24 hours. It is then fried and dressed in a Thai-themed citrus sauce made from pepper, tomato, grapefruit, lemon, and either grapefruit, pomelo, or currently orange, depending on the season.

**Soy Sauce Calamari**

Chef Ko’s Soy Sauce Calamari is a night-market favorite with a Sichuan twist. Crisp slices of calamari are drenched in a rich, savory, and sweet sauce with just a hint of spiciness to wake up the taste buds. Green chilies imported from Sichuan are added to a mixture of soy sauce, sugar, and rice wine (similar to Cantonese gongbao sauce). The combination is then reduced to a dark, flavorful topping that makes this appetizer a sure winner.

**Temple Portal Porridge**

After this much dining excitement, you might feel the need to slow down, and the Temple Portal Porridge offers the perfect respite. Yet this light and savory porridge is no boring congee, but rather a wonderful soup that offers a complex range of flavors combining dried sole, pork silk, squid, shrimp, dried cabbage, celery, and many other ingredients served in a savory chicken broth that has been simmered for four hours. With this much flavor, you won’t be able to stop at just one bowl.

**Dream Flower**

To round off your culinary adventure, Chef Ko has created a dish that exquisitely expresses the ideals of “borderless cuisine” embraced by The Sherwood: the Dream Flower. Made from purple yam dough that has been fashioned into the shape of a flower, this cute purple dish could easily be mistaken for a dessert. But take a bite and you’ll find a savory and chewy *dim sum* stuffed with a combination of shrimp and cheese!

To encourage AmCham Taipei members to give their taste buds a treat, The Sherwood is offering a special deal – two free *kaiweitsai* (appetizers) for every dining couple. This offer is good from now until December 30, 2017.
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Everybody agrees that taking a vacation is good for your health. Relaxation, combined with fresh air and a bit more exercise than usual, does wonders for your mental and physical well-being. So why not add a comprehensive physical exam to your itinerary, so you return to work not only refreshed, but also reassured that those annoying headaches were nothing more than stress?

Medical treatment in Taiwan is top quality, yet surprisingly inexpensive by U.S. standards. In 2015, life expectancy for Taiwanese males was 77 years, while that of females reached 83.6 years – both higher than in the United States. Several major hospitals have received accreditation from the Joint Commission International (JCI), the global standard for healthcare certification. Many doctors have studied in the United States, and most specialists speak fluent English. “The island offers the cheapest and best medical facilities of any country in the world,” concluded a report in October 2014 in Britain’s *Daily Telegraph*, referring to data compiled by HSBC Bank.

All in all, Taiwan – only slightly larger in area than Maryland but populated by 23 million people – is an excellent choice if your travel plans include a checkup, dental work, or elective surgery such as LASIK. At the same time, tourists who do not plan on going anywhere near a clinic during their trip can set out from home secure in the knowledge that – if they do chip a tooth while enjoying Taiwan’s wonderful cuisine or scrape a knee when riding a rented bicycle around Sun Moon Lake – they can get effective treatment with the minimum of fuss.

Taiwan’s government has been prioritizing tourism for well over a decade. In 2016, a record 10.7 million foreign travelers visited the country. But accurately counting the number of medical tourists – those who leave home primarily to receive surgery or therapy – is not easy,
because Taiwan allows American citizens – along with Australians, Japanese, most Europeans, and many others – to stay for up to 90 days visa-free without having to explain their itinerary. Data from hospitals, however, suggests that each year tens of thousands of people take the opportunity to come to Taiwan to save money on medical treatment and/or cut waiting times.

The potential savings can be huge. According to the Medhalt.com website, the cost of heart bypass surgery or a hip-joint replacement in Taiwan is about one-fifth that of identical procedures in the U.S. Even after paying their airfare and other expenses, Americans traveling to Taiwan for surgery can expect to save between 40% and 55%, the website says.

Of course, the majority of medical tourists do not schedule anything as dramatic as heart surgery. Instead, they book a checkup at an institution like Taiwan Adventist Hospital (TAH), which was founded by American missionaries in 1955. TAH offers eight physical-examination packages priced from NT$4,800 to NT$68,800 per person. Visitors who arrive in Taipei without an appointment should head to TAH’s Priority Care Center. The center has been providing multilingual services, including consultations with specialists and private rooms for admitted patients, to both tourists and resident foreigners since 1989.

Flying from the U.S. to Taiwan takes at least 11 hours, and even if medical treatment is the main purpose of your visit, it would be a great shame to leave without seeing something of the country. For this reason, some medical tourists choose the Tzu Chi Hospital in Hualien. It is not only one of Taiwan’s leading medical centers, but is also situated less than an hour’s drive from the breathtaking natural beauty of Taroko Gorge.

Another facility that has positioned itself for medical tourism is Chang Bing Show Chwan Memorial Hospital, located on the west coast in central Taiwan. The ancient temples and beguiling backstreets of the picturesque town of Lukang are just 15 minutes’ drive from this 1,000-bed hospital. Getting to the nearest big city of Taichung to get to the airport, High Speed Rail, or any of the city’s fabulous restaurants seldom takes more than 45 minutes.

The liver transplant team at the Kaoshiung branch of Chang Gung Memorial Hospital performed Asia’s first successful liver transplant in 1984. In 1997, they completed the world’s first living donor transplant without blood transfusion. The team has handled more than 1,500 cases, and achieved world-class one- and five-year survival rates of 96% and 91% respectively.

National Taiwan University Hospital (NTUH), the country’s leading teaching hospital, has long been among the most respected medical institutions in the region. In 1979, NTUH surgeons separated three-year-old conjoined-twin boys. It was the first such success in Asia, and only the fourth in the world. The surgery was expected to require a great deal of blood, and among those who donated especially for it was John Evans, then governor of Idaho, who was in Taipei attending a trade conference.

NTUH was also the site of Asia’s first kidney transplant in 1968. The hospital completed 1,100 such procedures between 1988 and mid-2013, with slightly more than one-third involving live donors. According to the hospital, the five-year survival rate of its patients is 95.2%. NTUH is also Taiwan’s principal lung transplant center, reporting a three-year survival rate of 51%.

Cheng Hsin General Hospital in Taipei has a superb track record for heart and kidney transplants, and the Chang Gung Craniofacial Research Center in north Taiwan’s Taoyuan City has repaired more than 30,000 cleft lips and palates since 1981, earning it an international reputation.

Several hospitals provide cosmetic surgery; double eyelid surgery and augmentation rhinoplasty are especially popular procedures. Prices are typically half those in Japan and comparable to or even lower than those in South Korea.

Even if one is on crutches or in a wheelchair, it’s easy to get around in Taiwan, especially Taipei. Great progress has been made in terms of barrier-free access to museums, railway stations, and other public places. Facilities for the disabled are now standard at public restrooms.

Foreign visitors taking city buses or mass rapid transit (MRT) trains have praised the willingness of local people to quickly give up their seat when they see someone who needs it. Taxi fares are relatively inexpensive compared to other major capitals in the world.

For additional English-language information about healthcare in Taiwan, visit the Ministry of Health and Welfare’s website (www.mohw.gov.tw). Detailed information useful for medical tourists can be found at the multilingual government-sponsored site www.medicaltravel.org.tw. For general tourist information about Taiwan, please contact the tourism hotline at 0800-011-765 (toll free when calling within Taiwan), or go to the Tourism Bureau’s website (www.taiwan.net.tw).
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Well-trained by two-starred Michelin chef Takagi Kazuo,
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The annual Taiwan White Paper is written and published by the American Chamber of Commerce in Taipei (AmCham). It includes an overall assessment of Taiwan's business climate, a review of the status of last year’s priority issues, and statements of the current priority issues identified by AmCham’s industry-specific committees. An additional section offers recommendations to the U.S. government.

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

Although the Taiwan White Paper represents the immediate business interests of AmCham’s approximately 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 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

A One-Year Performance Review

SUCCESES AND SHORTCOMINGS

- Last year’s Taiwan White Paper urged the incoming Tsai Ing-wen administration to “focus with intensity on ways to reinvigorate the economy,” including “setting clear directions and adopting inspiring but realistic objectives.”
- Thanks chiefly to the pick-up in the global economy, Taiwan’s economic situation currently is better off than it was a year ago. Still, observers worry about Taiwan companies’ long-term competitiveness and Taiwan’s exclusion from major bilateral and multilateral trade agreements.
- For the multinational business community in Taiwan, the results of the past year have been a mixed bag – with one achievement worthy of hearty applause and other measures that are cause for disappointment. In addition, it is still too early to judge the likelihood of success of some promising initiatives.

MAJOR ADVANCE IN TRANSPARENCY

- A major breakthrough was the Executive Yuan order, effective October 1 last year, subjecting any new regulations proposed by government agencies to a 60-day public notice and comment period, up from the previous 14 days.
- Previously, those affected by proposed new rules had virtually no time to digest and analyze the contents and respond with meaningful comments. Further, the government agencies rarely provided any feedback to their suggestions or a rationale for their final decisions.
- As seen from the results of AmCham Taipei’s annual Business Climate Survey, many of the regulatory problems companies faced in the past were the result of insufficient consultation with stakeholders before rules were made. The new protocol should lead to better quality regulations, as potential difficulties are identified and remedied well before rules go into force.
- The real value of the new system will only be known in the months ahead based on how it functions in practice. It is encouraging that the National Development Council will be monitoring the number of days that government agencies are allowing for notice and comment, and will provide training to government employees on how to deal with stakeholder recommendations effectively.

OPPORTUNITIES FOR INVESTMENT

- The administration’s ambitious plan known as the “5+2 Major Innovative Industries” is a potentially positive development. The core “5” are most relevant to the foreign business community: 1) “Asia·Silicon Valley,” focusing on the Internet of Things and cultivating startups, 2) biomedical, 3) green energy, 4) smart machinery, and 5) an indigenous defense industry. In each of these sectors, Taiwan already has a foundation of experience and expertise to build on.
- The government is counting on increased public and private investment in these areas to boost Taiwan’s economy by expanding R&D to introduce new technologies, incorporating greater value-added into domestic production, creating employment opportunities, and diversifying trade to reduce dependence on any single market.
- Also encouraging are the recent shifts in government policy designed to attract more foreign professional and technical talent to Taiwan to contribute their know-how to the envisioned industrial transformation.
- Still, questions have been raised as to whether the government’s approach to redirecting the economy is placing too much emphasis on the construction of physical facilities and other “hardware,” rather than development of such “software” as a cultural environment that fosters innovative approaches to problem-solving.

A PROBLEMATIC LABOR LAW

- Since Taiwan will depend largely on innovation for its future economic prosperity, recent revisions in the Labor Standards Law (LSL) were a step backward, with overly rigid provisions regarding permissible working hours, overtime pay, and other working conditions.
- White-collar professionals cherish freedom and flexibility in their work environment. They wish to be treated with dignity and respect commensurate with their level of education and expertise, and evaluated based on the quality of their job performance, not on the number of hours shown on a timesheet.
- The paternalistic approach taken in the LSL will stymie the very creative impulses the government says it wishes to encourage. It will also deter the global talent that Taiwan wishes to attract.
- Hopefully the Ministry of Labor will issue interpretive rulings to inject as much flexibility as possible into the implementation rules. Longer-term, further amendment of the law will be needed.
- The solution must be based on recognition that working-condition issues cannot be treated on a “one size fits all” basis. Separate regulatory frameworks are needed for different types of workers, distinguishing between manual labor and knowledge workers, while still ensuring employees’ wellbeing.

CONTINUED ENERGY UNCERTAINTY

- The government has committed to eliminating nuclear power by 2025 while drastically reducing Taiwan’s greenhouse gas emissions. The only way to achieve those dual objectives is a massive increase in the use of renewable energy, both solar and wind power. Many experts remain unconvinced that these ambitious goals can be met.
- A stable energy supply is crucial to the economy. For AmCham Taipei members, the key question is not the particular type of energy source that is relied on, but whether there is absolute assurance that the energy supply will be sufficient, reliable, and cost-competitive. The issue is especially critical for the high-tech manufacturing operations that are a key pillar of the Taiwan economy.
- The business community needs the government to provide a clear roadmap for how the power supply will be managed in the coming decade. Largescale power users also request the opportunity to meet periodically with representatives of the Ministry of Economic Affairs and the Taiwan Power Co. for discussions about the energy outlook.
- Maintaining the cost-competitiveness of the energy supply will be a critical factor in ensuring the continued overall competitiveness of Taiwan-based industry.
成效與缺失

去年的《2016台灣白皮書》敦促當時即將上任的蔡英文總統政府要「竭盡全力設法重振經濟」，包括訂定明確的方向，並訂出令人振奮但又切合實際的目標。

主要因為全球經濟景氣好轉，台灣經濟的情況比一年前有所改善。不過，許多觀察家依舊擔心，台灣被排除在重要雙邊與多邊貿易協定之外，在長期是否還有能力競爭。

從在台跨國企業的角度來檢視台灣去年的政績，結論是，好壞參半。我們認為其中僅有一項有令人振奮的結果，但其他則是令人失望。當然多項新政看似有往正面發展的潛力，但時日尚早，無法評斷其成功的機率為何。

法規透明度大幅提升

其中一項重大突破是行政院在林全院長領導下發布的行政命令，從去年10月1日起，指示政府各部會在擬訂新的規定或修訂現行法規時，從原本的14天提升到現有的60天公眾評論期。

過去，受到新法規影響的各方幾乎沒有時間消化和分析新內容，並提出有意義的評論。除此外，政府不常會回應意見也不對此相關決定提供任何解釋。

從台北市美國商會的2017台灣景氣調查中，可以看出過去企業所面臨與法規有關的問題在於法規頒佈之前未與利害關係人進行適當的諮詢。希望新的法規制定程序能提升法規的品質，在法規生效之前，就發掘並化解當中潛在的問題。

投資機會

政府雄心勃勃提出的「五加二」產業發展計畫具有正向發展的潛力。「五加二」當中的五項核心產業對外資企業來說，具有高度關聯性：1. 亞洲‧矽谷（主要在推動物聯網與扶植新創企業）；2. 生技醫療；3. 綠能科技；4. 智慧機械；5. 本土國防工業。台灣在這些領域上的發展，可據原有的經驗與技術為基礎。

政府希望增加與公共與民間在這些方面的投資，以助長台灣經濟。具體做法是擴大研發以引進新的科技、為國內的生產加值、創造就業機會，並藉由貿易多元化，以降低對任何單一市場的依賴。

另有一項令人感到鼓舞的發展是政府在最近修改政策，以吸
引更多外國專業與技術人才為台灣期望的產業轉型貢獻所長。

但還是有人質疑，政府推動經濟轉型的做法是否太偏重打造實體的設施與其他「硬體」，而不是發展例如有助提升以創新方法解決問題文化的「軟體」。

勞動法規問題重重

政府已清楚表明，台灣未來的經濟繁榮要靠創意的思維與行動，但勞動基準法新修正通過的條文對於最高工時、加班費和其他工作條件訂定的嚴格規範卻是開倒車的做法。

自領專業人士重視工作環境的自由與彈性。他們希望獲得與他們的教育和專業知識相稱的尊嚴與尊重，也希望雇主在評估他們的績效時，看重的是他們工作的品質，而不是出席卡上所顯示的工作時數。

政府希望鼓勵創新和創意，而且這也是台灣未來經濟發展所需，但勞基法這種父權的做法，只會扼殺創新和創意的感動，也會嚇跑台灣極力希望爭取的國際人才。

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勞動部能在施行細則中盡可能提供彈性。長遠來看，則需要透過立法程序進一步修訂勞基法。

工作條件的相關問題不能指望同一套制度能一體適用，不同類型的員工需要不同的法規架構。我們呼籲行政與立法部門以這項體認為基礎，共同合作找出解決之道，在確保員工福祉的同時，還是要對勞力型與知識型加以區分。

能源政策的穩定性

政府已經明確表示到了2025年，台灣將完全停止核能發電，同時承諾大量減少台灣温室氣體的排放量。要達到廢核與減碳的雙重目標，唯一的辦法是大幅增加再生能源，主要是太陽能與風力發電。但許多家電業者還是不信任這兩項遠大的目標能夠實現。

鑑於穩定電力對經濟極為重要。對本會整體會員企業來說，關鍵問題不在於依賴哪一種電力來源，而是在於能否百分百確定有足夠、可靠、成本具有競爭力的電力。對已經成為台灣經濟的重要支柱的高科技製造業來說，更是如此。

企業界需要政府提供清楚的路線，說明政府未來十年的電力管理規劃。工業用電大戶並要求能夠定期與經濟部及台電代表會面，以討論電力的前景。

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A One-Year Performance Review

SUCCESSES AND SHORTCOMINGS

In last year’s Taiwan White Paper, published just two weeks after the administration of President Tsai Ing-wen took office, the Overview section was entitled “New Government, New Opportunities.” In that document, AmCham Taipei cited the challenging economic circumstances then confronting Taiwan, including “sagging export performance, stagnant income levels, and faint consumer and investment confidence.” The Chamber urged the government to “focus with intensity on ways to reinvigorate the economy.”

While recognizing that “much of Taiwan’s economic momentum depends on the strength of international trade flows and is mostly beyond its own control,” the Overview stressed the importance of government action in setting clear directions and adopting inspiring but realistic objectives so as to raise consumer and investor confidence.

A year later, how well has the economy fared? In terms of most indicators, Taiwan is better off than it was a year ago. Thanks chiefly to the pick-up in the global economy, the long period of sluggish exports has ended, giving way to a seemingly healthy rebound in international trade. The stock market has reached peaks not seen in many years, and GDP growth forecasts for 2017 are in the comfortable range of 2-2.5%. Still, the malaise of recent years has not entirely lifted. Many observers continue to worry about Taiwan companies’ long-term ability to compete in the face of such challenges as China’s rapid technological development and Taiwan’s exclusion from major bilateral and multilateral trade agreements.

From the vantage point of the international business community in Taiwan, the results of the past year have been a distinctly mixed bag – with at least one achievement that is worthy of hearty applause combined with other measures that have been cause for disappointment. In yet additional cases, potentially promising initiatives have been launched, but it is still too early to judge their likelihood for success.

MAJOR ADVANCE IN TRANSPARENCY

In a section called “Improving the Rules-Making Process,” the 2016 Taiwan White Paper urged the Tsai administration to make reform of the Administrative Procedure Act (APA) a central component of its early policy agenda. The Chamber was therefore delighted when the Executive Yuan under Premier Lin Chuan issued instructions that, effective October 1 last year, any new regulations or revisions to existing regulations proposed by government ministries and agencies should be subject to a 60-day public notice and comment period, the same as in the United States and many other advanced countries. For many years in Taiwan, interested parties – from companies to individual members of the public – had only seven days (later lengthened to 14 days) to respond to pending regulatory changes.

Whether seven or 14 days, the previous period was woefully insufficient. Those affected by the proposed new rules had virtually no time to digest and analyze the contents and then respond with meaningful comments. The situation was especially unfavorable for foreign-invested companies, as the Chinese-language draft rules changes would need to be translated and then sent to headquarters or regional offices overseas for evaluation. Besides the unreasonably short notice period, the comment aspect of the procedure was usually a one-sided communication. Stakeholders would submit their observations pointing out potential unforeseen consequences and other pitfalls in the intended new regulations, but would rarely receive any feedback. In the majority of cases, the final regulation that was announced was identical to the original draft, without reflecting any of the concerns raised in stakeholder comments or providing any rationale for that decision.

The extension of the notice and comment period to 60 days – together with the government’s establishment of a user-friendly website (join.gov.tw) for tracking proposed regulatory changes and submitting comments – has the potential of being a breakthrough of enormous
consequences, vastly improving the environment in Taiwan for doing business. The likely significance can be seen from the results of the annual Business Climate Survey that AmCham Taipei has conducted over the past seven years among the leaders of its member companies. Although the respondents generally describe Taiwan as a good place to do business, the main deficiencies they cite as holding Taiwan back from even greater economic success most often refer to regulatory issues. Recurring themes have been dissatisfaction over “insufficient notice before changes to regulations to laws are introduced,” “differences between local and internationally accepted standards,” “inadequate/outdated laws and regulations,” “lack of transparency,” etc. We believe that many of the past problems in the regulatory process could have been avoided given proper public consultation through the notice and comment period. Hopefully, the new protocol will lead to better quality regulations, as potential difficulties are identified and remedied well before rules go into force.

As positive as the new system appears to be, its real value will only be known in the months ahead based on how it functions in practice. Will government agencies faithfully abide by the 60-day stipulation or will they overuse loopholes such as the waiver in cases of emergency? Will civil servants review suggestions from stakeholders with an open mind and provide clear explanations for why their opinions were accepted or rejected? In this respect, AmCham Taipei is encouraged by the role being played by the Executive Yuan’s National Development Council. The NDC is monitoring the number of days that government agencies are allowing for notice and comment, and will provide training to government employees on how to deal with stakeholder recommendations effectively.

OPPORTUNITIES FOR INVESTMENT

Falling in the category of a potentially positive development is the administration’s ambitious plan known as the “5+2 Major Innovative Industries.” For foreign-invested companies, it is mainly the core “5” that are relevant: 1) “Asia·Silicon Valley” (the dot is meant to signify Taiwan’s aspiration to serve as a link between Asia and California’s Silicon Valley), which focuses on promoting industrial activity related to the Internet of Things as well as creating a conducive business and legal environment for cultivating business startups, 2) biomedical, involving both biopharmaceuticals and medical devices, 3) green energy, in line with the plan to build up Taiwan’s capacity in renewables, particularly solar and offshore wind power, 4) smart machinery, wedding Taiwan’s strengths in IT and machine tools, and 5) an indigenous defense industry, reflecting the political constraints on Taiwan’s ability to procure advanced weaponry from abroad.

The government is counting on increased public and private investment in these areas to boost Taiwan’s economy by expanding R&D to introduce new technologies, incorporating greater value-added into domestic production, creating employment opportunities, and diversifying trade to reduce dependence on any single market. The industry sectors selected seem to be sound choices. In each of these sectors, Taiwan already has the advantage of a foundation of experience and expertise to build on, and it will enjoy the support of a well-established network of academic and research institutions. A number of our member companies in related industries have expressed strong interest in cooperating with the government in promoting these initiatives.

Also encouraging are the recent shifts in government policy designed to attract more foreign professional and technical talent to Taiwan to contribute their know-how to the envisioned industrial transformation. The rule about having two years of prior working experience to qualify to obtain a work permit has been made much more flexible, as have regulations on visa eligibility and even on acquiring local citizenship without relinquishing one’s original nationality.

Still, questions have been raised as to whether the government’s approach to redirecting the economy is placing too much emphasis on the construction of physical facilities and other “hardware,” rather than development of such “software” as a cultural environment that fosters innovative approaches to problem-solving. AmCham Taipei’s Business Climate Survey annually shows that employees in Taiwan consistently receive high ratings for being hard-working, trustworthy, and well-educated, but fall behind when it comes to taking initiative and demonstrating creativity – traits that will be especially in demand in the types of knowledge-based industries that Taiwan wishes to develop as the basis for its future prosperity.

A PROBLEMATIC LABOR LAW

In view of the government’s expressed intention to tie Taiwan’s future economic prosperity to its ability to promote innovative thinking and action, the recent
revisions in the Labor Standards Law (LSL) constituted a great leap backward. The rigid provisions it contains in terms of permissible working hours, overtime pay, and other working conditions might be suitable for a factory production line, but the traditional manufacturing sector accounts for a steadily decreasing proportion of Taiwan’s GDP and its labor force. The area of growth today is in services – engineers, software programmers, financial service providers, marketers, etc., not to mention lawyers, accountants and other professionals – and the trend is for that portion of the work force to continue to increase.

White-collar professionals cherish freedom and flexibility in their work environment. They wish to be treated with dignity and respect commensurate with their level of education and expertise, and evaluated based on the quality of their job performance, not on the number of hours shown on a timesheet. For their part, the supervisors of these employees care only that the job has been completed and done well and on schedule. The situation is further complicated by the increasing need for white-collar employees in Taiwan to engage in conference calls and other communications with colleagues in different time zones all over the world, as well as to undertake extensive business travel.

The paternalistic approach taken in the LSL will have the effect of stymieing the very innovative and creative impulses which the government says it wishes to encourage – and which will be necessary to carry Taiwan forward in the next stage of its economic development. It will also deter the global talent that Taiwan wishes to attract from looking at this market as a desirable place to which to relocate.

Considering that the amended LSL has already gone into effect, causing substantial concern and confusion for both employees and employers, we hope that in the short-term the Ministry of Labor can inject as much flexibility as possible into the implementation rules. The position paper in this volume by the Human Resources Committee includes a number of suggested ways in which the Ministry of Labor could ameliorate certain deficiencies in the law by issuing interpretive rulings.

To fully resolve the problems, however, further revisions will be needed through the legislative process. We urge the executive and legislative branches to work together to devise a solution based on recognition that working-condition issues cannot be treated on a “one size fits all” basis. Separate regulatory frameworks are needed for different types of workers, distinguishing between manual labor and knowledge workers, while still ensuring employees’ wellbeing.

**CONTINUED ENERGY UNCERTAINTY**

The government has made clear that Taiwan’s nuclear power units will start to be decommissioned from next year, and that nuclear power will be entirely removed from Taiwan’s energy mix by 2025. At the same time, the government has committed to reducing Taiwan’s greenhouse gas emissions by 20% by 2030 and 50% by 2050 compared to 2005 levels. The only way of achieving these dual objectives will be a massive increase in the use of renewable energy, mainly solar power but also wind power largely from offshore installations. Many experts remain unconfident that these ambitious goals can be met.

Given the crucial importance of a stable energy supply to the economy, AmCham Taipei recently established a dedicated Energy Committee consisting of both energy-producing and energy-consuming enterprises. For the Chamber’s members as a whole, the key question is not the particular type of energy source that is relied on, but whether there is absolute assurance that the energy supply will be sufficient, reliable, and cost-competitive. For the high-tech manufacturing operations like semiconductors that have become a key pillar of the Taiwan economy, loss of power for even a fraction of a second could have huge negative consequences for the production process.

Above all else, the business community – whether domestic or foreign-invested – needs the government to provide a clear roadmap sharing its plans for managing the power supply in the coming decade. Largescale power users also request the opportunity to meet periodically with representatives of the Ministry of Economic Affairs and the Taiwan Power Co. for discussions about the energy outlook. As the new Energy Committee states in its position paper: “While we support the development of renewable energy sources like wind and solar, experience in other markets has shown that transitioning too quickly toward renewable energy places significant upward pressure on energy costs, which is a particular concern for large power users.”

Maintaining the cost-competitiveness of the energy supply will be a critical factor in ensuring the continued overall competitiveness of Taiwan-based industry.
**BOLSTER TRADE TIES WITH THE U.S.**

During the past several years, AmCham Taipei was an avid supporter of the Trans-Pacific Partnership (TPP), which we regarded as a vital opportunity for the United States to demonstrate economic leadership in the Asia Pacific. Our hope was also that Taiwan would be able to become a signatory when TPP expanded membership in a second round, helping to remedy Taiwan’s exclusion from free trade agreements (FTAs) with its major trading partners. Following Donald Trump’s decision to withdraw from the TPP as one of his first acts as U.S. President, however, Taiwan now needs to look for new channels to diversify its trade relations and avoid marginalization in the international economic arena.

One possibility would be seeking to join a truncated TPP should it come to pass. The 11 remaining TPP negotiating countries are considering going forward without the United States. Japan would presumably welcome eventual participation by Taiwan if TPP gets a second lease on life, but without American involvement it is less certain that political obstacles to Taiwan’s membership could be overcome.

The prospects appear better for a bilateral agreement with the United States. President Trump has made known his distaste for multilateral agreements, but he has left the door open to bilateral trade pacts as long as they do not put American interests at a disadvantage. Given the long and mutually fruitful economic relationship between Taiwan and the United States, and the support Taiwan continues to enjoy in the U.S. Congress, such a bilateral “fair trade agreement” would seem to be feasible.

The phone conversation between President Tsai and then-President-elect Trump temporarily raised expectations for heightened U.S.-Taiwan relations, only to be dashed following the Trump-Xi summit in Florida. But neither the phone call nor the summit will necessarily have long-term implications. AmCham Taipei urges both the Taiwan and U.S. governments to give serious consideration to entering into a “fair trade agreement” that would well serve the interests of both economies.

**VISION AND DETERMINATION**

Overcoming obstacles to bring Taiwan to a new, innovation-based stage of economic development and prosperity will take both vision and resolution. Valuable lessons can be learned from the experience of the United States’ Silicon Valley. The essence of Silicon Valley’s success is disruption – constantly devising and accommodating new and better ways to do things. The needs of those displaced by new initiatives must be attended to, but should not be allowed to block progress. For Taiwan, bold leadership will be required to carry out the reforms necessary for the economy to regain its vitality and fulfill its potential.

The bulk of this document consists of practical suggestions for improving the investment climate, proposed by the members of AmCham Taipei’s committees based on their day-to-day experience in doing business. While we hope that all of these recommendations will receive due consideration, we draw special attention on the following pages to 12 priority issues that should be relatively easy to resolve while having a major impact in their particular sectors. The progress in resolving these issues over the coming months will be a clear indication of the strength of the Taiwan government’s resolve in meeting its goals of economic transformation.
台灣白皮書：總論

一年成果回顧

成效與缺失

《2016台灣白皮書》是在蔡英文總統的政府就職兩週之後發表，其中總論的標題是「新政府，新機會」。在那份文件中，台北市美國商會列出台灣經濟環境當時面對的挑戰，包括「出口表現不振、所得停滯以及消費者與投資者都缺乏信心」，並鼓勵政府「竭盡全力設法重振經濟」。台北市美國商會認同「台灣的經濟動能受到國際貿易流通影響甚大，其變化也很難掌握」，但也在總論中強調，政府要採取行動以訂定明確的方向，並訂出令人振奮但又切合實際的目標，以提振消費者與投資人的信心。

相隔一年，台灣經濟目前情況如何？從多數指標來看，台灣的情況比一年前有所改善。主要因為全球經濟景氣好轉，台灣長期出口不振的局面已經結束，對外貿易看來有明顯起色。台灣股市指數出現睽違多年的高點，2017年國內生產毛額（GDP）成長可期，預測的年成長率在2%到2.5%之間，不過，近年的問題並未完全化解；中國技術發展快速，而且台灣被排除在重要的雙邊與多邊貿易協定之外，許多觀察家依舊擔心，台灣企業面對這些挑戰，在長期是否還有能力競爭。

除此之外，從在台外商的角度來檢視台灣去年的政績，結論是，好壞參半。我們認為其中僅有一項有令人振奮的結果，但其他則是令人失望。當然多項新政看似有往正面發展的潛力，但時日尚早，無法評斷其成功的機率為何。

透明度大幅提升

《2016台灣白皮書》在「改善法規制訂程序」的部分敦請蔡政府，把行政程序法的改革列為早期施政的重要項目。台北市美國商會因此很高興見到行政院在林全院長領導下，從去年10月1日起，指示政府各部會在擬訂新的規定或修訂現行法規時，要有60天的公眾評論期，跟美國與許多其他先進國家的做法一致。我們認為其中僅有一項有令人振奮的結果，但其他則是令人失望。當然多項新政看似有往正面發展的潛力，但時日尚早，無法評斷其成功的機率為何。

對外資企業尤其不利，因為以中文書寫的法規草案必須先翻譯為外文，再送到企業總部或地區辦公室評估。除了公告期短得不合理，所謂的評論往往只是單向的溝通。利害關係人會交出意見，指出新法規可能未被預見的後果與其他隱憂，但不會獲得回應。政府最後公布的新法規內容，往往跟原本的版本一字不差，完全沒有反映利害關係人表達的關切，政府也不對此相關決定提供任何解釋。

把公告評論期延長為60天，加上政府建立使用便利的網站（join.gov.tw），用來追蹤擬議中的法規修訂內容並提供評論，有可能成為影響深遠的突破。大大改善台灣的經商環境。

台北市美國商會在過去7年，每年針對會員企業的主管進行台灣景氣調查，而從調查的結果，就可以看出上述變革可能的影響。外商企業主管一般認為台灣具有良好的經商環境，但他們也認為，台灣經濟可以有更好的發展，只是存在一些重要的缺憾，其中大多與法規有關。他們經常提到的問題包括「法規頒佈之前，沒有足夠的預告期」、「本地法規不同於國際標準做法」、「不法規不合時宜或過時」與「欠缺透明度」等等。我們相信，只要透過公告評論期與各方進行適當的諮商，過去在法規訂定過程中出現的許多問題就可以避免。希望新的程序能提升法規的品質，在法規生效之前，就發掘並化解當中潛在的問題。

新的制度儘管相當正面，但它真正的價值，要看未來幾個月實施的成效才會清楚。政府部門是否嚴格遵守60天的規定？會不會濫用在緊急狀況下可以縮短評論期的條款？公務員是否以開放的態度審查利害關係人的建議，並且針對是否接受這些意見提出說明？在這方面，台北市美國商會對於行政院國家發展委員會所扮演的主角感興趣。國家發展委員會在追蹤監督政府各部門所提出的評論期天數，並對公務員提供訓練，幫助他們有效處理利害關係人的建議。

投資機會

過去一年另一項具有潛在性的正向發展，是政府提出的「五加二」產業發展計畫。對外資企業來說，「五加二」當中的五項核心產業比較具有關鍵性：1．亞洲，矽谷（名稱當中的點，代表台灣希望成為亞洲與加州矽谷之間的連結）。在主要
推動與物聯網有關的產業，同時為新創企業打造有利的商業與法規環境；2. 生技醫療，包括生技製藥與醫療器材；3. 雙能科技，配合台灣發展再生能源的計畫，特別是太陽能與離岸風力發電；4. 智慧機械，結合台灣在資訊科技與工具機製造方面的優勢；5. 本土國防工業，這反映了台灣因政治因素難以向外國採購先進武器的窘境。

政府希望增加與民間在這些方面的投資，以助長台灣經濟，具體做法是擴大研發以引進新的科技、為國內的生產加值、製造業機會，並且使貿易多元化，以降低對任何單一市場的依賴。政府選擇的產業似乎相當合適，因為台灣在這些領域原本就享有經驗與技術的優勢，而且有多所學術與研究機構提供支援。我們在相關產業的許多會員企業已經表達強烈興趣，願意配合政府推動「五加二」計畫。

另一項令人感到鼓舞的發展，是政府在最近修改政策，以吸引更多外國專業與技術人才，為台灣期望的產業轉型貢獻所長。台灣原本規定，要取得工作許可，必須具備兩年的工作經驗，修訂之後增加許多彈性，此外，申請簽證的規定大幅放寬，甚至要取得中華民國國籍，也不再要求必須放弃原本的國籍。

但還是有人質疑，政府推動經濟轉型的計劃太偏重打造實體的設施與其他「硬體」，而不是發展「軟體」。例如有助提升以創新方法解決問題的軟件文化。根據台北市美國商會每年進行的商業景氣調查，台灣的員工往往因為努力工作、值得信賴和受過良好教育獲得高度肯定，但在主動性與展現創意方面有所不足。台灣希望發展知識經濟，做為未來繁榮的基礎，在這個過程中，特別需要主動積極與有創意的員工。

勞動法規問題重重

政府已清楚表明，台灣未來的經濟繁榮要靠創意的思維與行動。但勞動基準法最近的修訂卻是嚴重開倒車的做法。新修正通過的條文對於最高工時、加班費和其他工作條件訂定的嚴格規範，這個做法或許適合工廠的生產線，但傳統製造業在臺灣國內生產毛額所佔的比例以及員工人數正在逐年降低；台灣目前在成長發展的是服務業，包括工程師、程式設計師、金融服務與行銷等等，更不用提律師、會計師與其他專業人士，而且目前的趨勢是這些行業的從業人數將會持續成長。

白領專業人士重視工作環境的自由與彈性。他們希望獲得與他們的教育和專業知識相稱的尊嚴與尊重，也希望雇主在評估他們的工作表現時，看重的是他們工作的品質，而不是出席卡上所顯示的工作時數，而他們的上司也只期望工作成功的一個部分。除此之外，台灣白領工作階層越來越常需要跟全球不同時區的同事進行視訊與其他方式的溝通，並且經常需要出差，這又使得工作出現問題更加複雜化。

政府希望鼓勵創新和創意，而且這也是台灣未來經濟發展所需。但勞基法這種聚集的作法，只會扼殺創新和創意的感動，也將恐絆台灣經濟希望爭取的國際人才，讓他們不願到這裡工作和生活。

修訂後的勞基法已經生效，結果是讓雇主和勞工都感到關切和混淆。我們在最近的短期內，勞動部能在施行細則中盡可能提供彈性。本會人力資源委員會在今年的白皮書當中提出的立場說明包含多項建議，讓勞動部可以藉著解釋性的裁定，緩和勞基法條文帶來的不良效應。

能源政策的穩定性

政府已經明確表示，臺灣現有的核能發電機組將從明年開始除役，到了2025年，台灣將完全停止核能發電。同時，台灣承諾以2005年為基礎，到2030年把溫室氣體排放量減少20%，到2050年減少50%。要達到廢核與減碳的雙重目標，唯一的辦法是大幅增加再生能源，主要是太陽能發電，另包括離岸設施採用的風力發電。但許多專家還是不相這兩項遠大的目標能夠實現。

鑑於穩定電力對經濟極為重要，本會最近成立能源委員會，成員包括生產能源與使用能源的企業。對本會整體會員企業來說，關鍵問題不在於依賴哪一種電力來源，而是在於能否百分之百確定有足夠、可靠、成本具有競爭力的電力。半導體等高科技製造業已經成為台灣經濟的重要支柱，對這類產業來說，即使是斷電0.1秒鐘，都會對生產過程造成嚴重的後果。

尤其重要的是，企業界不但不願本國企業或外資企業提供清楚的路線，說明政府未來十年的電力管理規劃。工業用電大戶並要求能夠定期與經濟部及台電代表會面，以討論電力的前景。新成立的能源委員會在意見書中指出：「我們雖然支持風力和太陽能等再生能源，但其他市場的經驗顯示，如果太快改採再生能源，將帶來調漲電費的龐大壓力，這對大量使用電力的客戶來說是非常值得關切的事。」

為保持台灣產業整體的競爭力，維持電力的成本競爭力將會是個關鍵因素。

在過去好幾年，本會積極支持跨太平洋夥伴協定（TPP）。我們認為TPP是美國在亞太地區展現經濟領導地位的重要機會，同時希望台灣能參與TPP第二回合談判，並成為簽署國，以因應台灣未能與主要貿易夥伴簽署自由貿易協定的問題。但川普出任美國總統不久，便決定退出TPP，因此台灣需要找尋新的渠道多元經營貿易關係，並且避免被排除在國際經濟體系之外。
一個可能性是，如果TPP在美國缺席的情況下繼續推動，台灣還是可以設法參與。共同推動TPP的另外11個國家仍在考慮繼續進行，若是這樣，日本可能會歡迎台灣最終能夠加入，但因為美國不在其中，台灣入會的政治障礙能否排除，變得比較難以掌握。

台灣與美國簽署雙邊協定的可能性似乎比較高。川普已經表明不喜歡多邊協定，但他不排斥雙邊貿易協定，只要美國利益能獲得確保。鑑於美台之間存在長期互利的經濟關係，而且台灣持續獲得美國國會的支持，美台簽署雙邊「公平貿易協定」似乎可行。台灣顯然必須在現存的貿易問題上做出一些讓步，主要包括目前對於若干美國豬肉和牛肉產品的進口限制。但那些讓步其實是接受國際標準，而且如果讓步的結果是美台簽署貿易協定，台灣多數民衆應該可以接受。此外，目前看來這樣的條件交換可以在簽署雙邊協定的談判中做安排。華府已不堅持台灣必須先開放市場，做為談判的先決條件。美國極具影響力的聯邦參議員葛拉斯利最近表達以上看法，這表示他先前的立場已經改變。

蔡總統與川普在當選總統之後通電話，一時之間拉高了外界對於美台關係升溫的期望，但在佛羅里達州的川習會之後，這個期望宣告破滅。但那通電話和川習會都未必具有長期的意義。本會促請台灣與美國政府認真考慮簽署符合兩國經濟利益的「公平貿易協定」。

要克服障礙，把台灣帶往以創新為基礎的經濟發展新階段，並且創造繁榮，需要遠見與決心。美國硅谷的發展經驗，可以作為寶貴的借鏡。硅谷成功的關鍵在於破壞性，也就是不斷設計和調整，以找出做事情更新、更好的辦法。有些人會因新的計劃而蒙受損失，他們的需要必須獲得照顧，但不可以讓他?們阻撓進步。台灣需要大膽的領導，以推動使經濟恢復活力並發揮潛力所需的改革。

這份文件主要內容是改善台灣投資環境的具體建議。本會各委員會提出這些建言的根據，是他們日常營運的經驗。我們希望所有的建議都能獲得重視，但要特別指出，接下來幾頁所列出的12項優先議題，化解的難度應該相對較低，但卻對相關產業具有重大影響。未來幾個月在解決這些問題方面的進展將會是個清楚的指標，可以從中看出台灣政府究竟有多大決心，來達成經濟轉型的目標。
Although all of the 83 items raised in the 2017 Taiwan White Paper are important and deserve consideration, AmCham Taipei this year has selected 12 issues from various industry sectors that we hope will receive special attention from the Taiwan government. These issues were chosen on the basis of two criteria. They were deemed by our committees to have the potential for major impact on the investment climate, while also presenting the opportunity for resolution within a relatively short period of time. The Chamber respectfully requests that the government provide us with a status report each quarter, with the goal of adopting as many of the 12 as possible before publication of the next White Paper a year from now.

**ASSET MANAGEMENT**
- Implement a member-choice labor pension scheme as soon as possible (see p. 24WP).

**BANKING**
- Lift regulatory restrictions and provide an incentive framework for the onshore wealth management business (see p. 27WP).

**CAPITAL MARKETS**
- Relax securities investment rules to allow wider participation, fostering market growth (see p. 30WP).

**COSMETICS**
- Recognize other countries’ Cosmetics GMP as equivalent to Taiwan's under the Cosmetics Act (see p. 34WP).

**HUMAN RESOURCES**
- Revise the regulations on overtime work (see p. 39WP).

**INSURANCE**
- Increase the convenience for consumers to obtain protection insurance (see p. 46WP).

**INTELLECTUAL PROPERTY & LICENSING**
- Enact needed revisions to the Copyright Act (see p. 49WP).

**MEDICAL DEVICES**
- Reduce the pre-market registration time (see p. 50WP).

**PHARMACEUTICAL**
- Shorten the regulatory and reimbursement approval timeline for new drugs and indications to provide timely patient access to innovative new drugs (see p. 54WP).

**RETAIL**
- Increase the number of eligible testing laboratories and ensure that test results can be provided in both Chinese and English (see p. 62WP).

**TECHNOLOGY**
- Adjust workforce regulations with an eye to maintaining the competitiveness of Taiwan’s technology industries (see p. 68WP).

**TRAVEL & TOURISM**
- Apply international best practices to refund policies for hotel bookings (see p. 75WP).

雖然2017年台灣白皮書內所列舉的83個議題都很重要且值得主管機關的重視，台北市美國商會今年仍特別從各個領域中，篩選出12個希望受到政府更多關注的議題。這些議題是透過兩個準則所選出來的：商會的委員會認為對投資環境具有高度影響力，但同時也能在相對短期內就可解決的議題。在明年下一期白皮書發表前，商會在這邊誠摯地呼籲政府能竭力解決這12項議題，並且每季提供以下議題的進度報告。
Suggestion 1. Deepen the economic relationship with Taiwan by negotiating a bilateral trade agreement.

President Trump’s dissatisfaction with multilateral trade agreements was starkly evident throughout the 2016 election campaign, and he acted to pull the United States out of the embryonic Trans-Pacific Partnership (TPP) on his first day in office. But the President has also taken pains to emphasize that he is not against international trade, or even opposed to trade agreements as long as they are bilateral in nature and contain no provisions that would jeopardize American interests.

For that reason, the Trump administration may wish to demonstrate at an early stage that the notion of promoting trade under the right conditions is more than just talk. Entering into negotiations for bilateral agreements with appropriate trading partners would reassure many pro-trade political figures among both Republicans and Democrats that America’s longstanding support for an active trade policy has not been abandoned. And it would provide the administration with additional tools to further its goal of decreasing America’s trade deficits with other countries, whether by eliminating unfair trade barriers to U.S. products or finding ways to increase American exports.

As it looks around the globe for prospective negotiating counterparts for a bilateral trade pact, the U.S. government hopefully will conclude that Taiwan is one of the most suitable candidates. In strictly quantitative terms, Taiwan stands out as America’s 10th largest trading partner, with two-way trade in goods last year of US$65.4 billion, exceeding the volume of many countries with far larger populations. In addition, through the Trade and Investment Framework Agreement (TIFA) process, Taiwan and the United States over the past two decades have developed a positive working relationship on trade matters. The U.S. government helped promote Taiwan’s entry into the World Trade Organization, which took place in 2002, and in the years leading up to the WTO accession most of the sensitive market-access issues for U.S. goods and services were resolved.

Taiwan has also made great strides in the area of intellectual property rights protection, and it is considered to have strong regulations in place with regard to environmental protection and labor rights. Internationally, Taiwan has been an active and constructive member of APEC (the Asia Pacific Economic Cooperation forum), and under the Global Cooperation & Training Framework (GCTF) has engaged in close cooperation with U.S. government agencies in areas such as healthcare, environmental protection, and women’s empowerment.

In addition, the government has been actively encouraging Taiwanese companies to invest in the United States. At the SelectUSA Investment Summit in Washington each year, the Taiwan delegation is among the largest.

Currently the Department of Commerce and USTR are reviewing the trade policies of countries with which the United States regularly runs a substantial trade deficit. Taiwan is included, but it is way down on the list, with a 2016 trade imbalance of US$13.3 billion (in contrast, China’s surplus with the United States came to US$347 billion and Mexico’s to US$63.2 billion). And for the most part, the reasons for the trade imbalance are structural – such as the huge disparity in size between the two markets – rather than the result of protectionist measures on Taiwan’s part.

At the same time, negotiation of a bilateral trade agreement with Taiwan would be an excellent forum for discussing any thorny trade issues that are still outstanding, including such delicate topics as the remaining restrictions on the import into Taiwan of certain beef and pork products. To the U.S. side, the issue is a clearcut matter of respecting scientific evidence and international standards. Although many in Taiwan share that view, others have raised questions of food safety, causing the full opening of the beef and pork market to become a hot-button political subject. Despite the hyper-sensitivity, however, the Taiwan government can be expected to muster the political will to resolve the issue through reference to standard international practices if it is dealt with as part of a package leading to a bilateral agreement with the United States.
Taiwan would be an enthusiastic negotiating partner for such a deal. It has had to watch from the sidelines as its major trade rival, South Korea, has signed FTAs with the United States, EU, China, and ASEAN, eroding Taiwan’s competitiveness. Political constraints have limited Taiwan’s FTAs to those with Singapore, New Zealand, and a few Central American countries.

China would likely object to the United States seeking a bilateral agreement with Taiwan, but as an economy under APEC, Taiwan has a recognized right to negotiate with all other APEC members. As a trade agreement would be strictly economic and non-political, Beijing has no sound reason to oppose it. The lack of formal diplomatic relations between Washington and Taipei should also pose no barrier to concluding such an agreement, as U.S. law as stated in the Taiwan Relations Act expressly provides for such bilateral pacts.

Speaking at AmCham Taipei’s annual banquet in March, President Tsai Ing-wen stressed that Taiwan supports not only “free trade” but also “fair trade.” She said that “faced with the new U.S. administration’s ‘America First’ policy, Taiwan is prepared to make adjustments.” The Chamber urges the U.S. government to take her up on that offer.

Suggestion 2: Encourage more high-level visits in both directions.

A bill for legislation to be known as the Taiwan Travel Act was submitted in the U.S. Congress last fall by three Senators: Marco Rubio of Florida, James Inhofe of Oklahoma, and Cory Gardner of Colorado. The text notes Taiwan’s momentous democratic achievements in the past several decades, and bemoans the self-imposed restrictions that the United States maintains on high-level visits with Taiwan in both directions. Since the year 2000, only one U.S. Cabinet-rank official, Environmental Protection Agency administrator Gina McCarthy, has paid a visit to Taiwan, even though such high-level visits are vitally important in broadening and deepening U.S. ties with other countries. During the 1990s, Cabinet secretaries visited Taiwan quite regularly, on the average of once every two years.

The bill states that (1) the United States Government should encourage visits between the United States and Taiwan at all levels; and (2) the United States Government must not place any restrictions on the travel of officials at any level of the United States Government to Taiwan to meet their Taiwanese counterparts or on the travel of high-level officials of Taiwan to enter the United States to meet with officials of the United States.

AmCham Taipei hopes that this legislation will receive broad bipartisan support in Congress. It has been the Chamber’s experience that periodic visits by high-level officials can make a huge difference in building a strong bilateral relationship and in supporting the interests of American companies operating in Taiwan.

Suggestion 3: 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. We note that Vice President Mike Pence, speaking at the U.S. Chamber of Commerce’s Invest in America Summit last month, said President Trump supports a change in the U.S. practice of taxing expatriates, saying “he’ll end the outdated policy of worldwide taxation and enact a territorial system in its place.”

- 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

## Graphic 1: Economic Growth Rate

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

Note: *p* = preliminary

## Graphic 2: Gross Domestic Investment

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Source: National Statistics, R.O.C.

## Graphic 3: Foreign Direct Investment

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Source: Ministry of Economic Affairs (MOEA)

## Graphic 4: Total Foreign Trade

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</tr>
<tr>
<td>2014</td>
<td></td>
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<tr>
<td>2015</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

Source: Ministry of Economic Affairs (MOEA)

## Graphic 5: Key Economic Indicators

<table>
<thead>
<tr>
<th>Year</th>
<th>Gross Domestic Product</th>
<th>Per Capita GDP</th>
<th>Gross National Savings</th>
<th>Unemployment</th>
<th>Inflation (CPI)</th>
<th>Foreign Exchange Reserves</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>US$392 bn</td>
<td>US$16,988</td>
<td>27.62%</td>
<td>5.85%</td>
<td>-0.87%</td>
<td>US$348 bn</td>
</tr>
<tr>
<td>2010</td>
<td>US$446 bn</td>
<td>US$19,278</td>
<td>31.68%</td>
<td>5.21%</td>
<td>0.96%</td>
<td>US$382 bn</td>
</tr>
<tr>
<td>2011</td>
<td>US$486 bn</td>
<td>US$20,939</td>
<td>29.97%</td>
<td>4.15%</td>
<td>1.42%</td>
<td>US$386 bn</td>
</tr>
<tr>
<td>2012</td>
<td>US$511 bn</td>
<td>US$21,308</td>
<td>20.83%</td>
<td>4.39%</td>
<td>1.93%</td>
<td>US$403 bn</td>
</tr>
<tr>
<td>2013</td>
<td>US$530 bn</td>
<td>US$21,902</td>
<td>29.12%</td>
<td>4.18%</td>
<td>0.79%</td>
<td>US$417 bn</td>
</tr>
<tr>
<td>2014</td>
<td>US$525 bn</td>
<td>US$22,635</td>
<td>31.16%</td>
<td>3.96%</td>
<td>1.20%</td>
<td>US$419 bn</td>
</tr>
<tr>
<td>2015</td>
<td>US$530 bn</td>
<td>US$22,469</td>
<td>30.45%</td>
<td>3.78%</td>
<td>-0.31%</td>
<td>US$426 bn</td>
</tr>
<tr>
<td>2016</td>
<td>US$530 bn</td>
<td>US$22,530</td>
<td>30.45%</td>
<td>3.92%</td>
<td>1.40%</td>
<td>US$434 bn</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.
**REVIEW OF 2016 WHITE PAPER ISSUES**

The chart below is a status review of all priority issues in the 2016 Taiwan White Paper. The progress of each issue is rated according to the following standards:

1. **Solved**: Conclusive action has been taken on the issue, with a fair and transparent record of implementation. It is no longer considered a problem.
2. **In 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 80 issues raised in the 2016 White Paper, 0 are rated Solved, 8 In Progress, 41 Under Observation, 26 Stalled and 5 Dropped.

<table>
<thead>
<tr>
<th>Committee</th>
<th>2016 White Paper Issues</th>
<th>Rating 2017 WP</th>
<th>Notes on 2017 Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agro-Chemical</td>
<td>1. Shorten the registration process.</td>
<td>3 * changed to &quot;Quickly complete drafting the &quot;Guidelines for Pest Investigation in Field Trials&quot; for major crop diseases, pests, and weeds in Taiwan.&quot;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Require toxicological test data for technical and formulated grade pesticides that have been registered for 15 years or more.</td>
<td>3</td>
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<tr>
<td></td>
<td>3. Extend the data protection period on pesticides from 8 years to 10.</td>
<td>3 * changed to &quot;Extend the protection period for registered data and for products for minor crops.&quot;</td>
<td></td>
</tr>
<tr>
<td>Asset Management</td>
<td>1. Continue to relax the regulatory restrictions on onshore funds and DFM accounts, and align policy with global practice.</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Promote the application of &quot;AUM-based&quot; methodology for calculating distributors’ commissions on fund sales.</td>
<td>3 *</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Implement a member-choice labor pension scheme as soon as possible.</td>
<td>3 *</td>
<td></td>
</tr>
<tr>
<td>Banking</td>
<td>1. Further broaden opportunities for offshore product development and distribution.</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Allow banks to provide financing to customers by using their financial assets under trust from the lending bank as collateral.</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Further relax client qualification for foreign bank branches.</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Capital Markets</td>
<td>1. Support the growth of the Offshore Securities Unit (OSU) market.</td>
<td>4 * changed to &quot;Align OBU set-up criteria for OSUs to create a fair and consistent standard across industries.&quot;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Relax securities investment rules, allowing wider participation to foster market growth.</td>
<td>3</td>
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<tr>
<td></td>
<td>3. Support the enhancement of cross-strait capital market activities.</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Enhance market efficiencies and competitiveness.</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Chemical Manufacturers</td>
<td>1. Improve the protection of Confidential Business Information (CBI) with regard to chemical substance disclosure.</td>
<td>3 *</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Reduce the requirement for toxicity tests on animals.</td>
<td>3 *</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Provide a platform to facilitate Phase II joint registration for existing chemical registration.</td>
<td>3 *</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Withdraw the recent guidelines on border control.</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Provide sufficient lead time for Existing Chemical Substance late pre-registration.</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1. Make the regulation of work schedules more flexible.</td>
<td>4 * changed to &quot;Revise the regulations on overtime work.&quot;</td>
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<tr>
<td></td>
<td>2. Improve consistency in applying labor inspection standards.</td>
<td>3</td>
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<td></td>
<td>3. Amend the proposed draft of the Protection of Dispatch Workers Act.</td>
<td>4</td>
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<tr>
<td></td>
<td>4. Loosen regulations on fixed-term employment contracts.</td>
<td>4 * changed to &quot;Ramp up policies relating to non-conventional types of labor.&quot;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Create more incentives to attract foreign talent and keep domestic talent</td>
<td>3 *</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Specify the enforcement details for post-employment non-competition covenants in the LSL Enforcement Rules.</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Human Resources</td>
<td>1. Ensure that Taiwan’s power supply continues to be sufficient, reliable, and competitively priced.</td>
<td>4 * changed to &quot;Move to Energy Committee &quot;Continue to ensure power-supply adequacy, reliability, and cost competitiveness.&quot;</td>
<td></td>
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<tr>
<td></td>
<td>2. Set a realistic energy plan that considers both energy demand and carbon-emission reduction goals.</td>
<td>4</td>
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</tr>
<tr>
<td></td>
<td>3. Adopt new Demand Side Management technologies and provide greater support for offshore wind farm development.</td>
<td>2</td>
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<tr>
<td></td>
<td>4. Attract more foreign companies to participate in the government procurement market.</td>
<td>3</td>
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</tr>
<tr>
<td></td>
<td>5. Remove unreasonable provisions in the Government Procurement Law.</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Infrastructure</td>
<td>1. Review the regulatory policy governing insurance broking.</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Continue to increase the convenience for consumers to obtain protection insurance.</td>
<td>3 *</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Alienate the undue financial pressure stemming from unintended consequences of increasing the business tax rate for insurance companies.</td>
<td>4</td>
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</tr>
<tr>
<td></td>
<td>4. Encourage the adoption of protection and retirement insurance products in view of the aging of the society.</td>
<td>4</td>
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</tr>
<tr>
<td></td>
<td>5. Simplify the non-life product filing process to meet commercial market needs.</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1. Remove all unreasonable or discriminatory regulations imposed on Copyright Collective Management Organizations (CCMCOs).</td>
<td>4 * changed to &quot;Remove unreasonable restrictions to CCMCO rate settings.&quot;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Make needed revisions to the Copyright Act.</td>
<td>3 *</td>
<td>changed to &quot;Enact needed revisions to the Copyright Act&quot;</td>
</tr>
<tr>
<td>Insurance</td>
<td>3. Adopt effective measures to deal with online copyright infringement.</td>
<td>4 *</td>
<td>changed to &quot;Enact needed revisions to the Copyright Act&quot;</td>
</tr>
<tr>
<td></td>
<td>4. Strengthen the IP Court’s williness to grant more evidence-preservation orders and award reasonable damages.</td>
<td>4 * changed to &quot;Enact needed revisions to the Copyright Act&quot;</td>
<td></td>
</tr>
<tr>
<td>Intellectual Property &amp; Licensing</td>
<td>1. Remove unreasonable or discriminatory regulations imposed on Copyright Collective Management Organizations (CCMCOs).</td>
<td>4 * changed to &quot;Remove unreasonable restrictions to CCMCO rate settings,&quot;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Make needed revisions to the Copyright Act.</td>
<td>3 *</td>
<td>changed to &quot;Enact needed revisions to the Copyright Act&quot;</td>
</tr>
<tr>
<td></td>
<td>3. Adopt effective measures to deal with online copyright infringement.</td>
<td>4 *</td>
<td>changed to &quot;Enact needed revisions to the Copyright Act&quot;</td>
</tr>
<tr>
<td></td>
<td>4. Strengthen the IP Court’s williness to grant more evidence-preservation orders and award reasonable damages.</td>
<td>4 * changed to &quot;Enact needed revisions to the Copyright Act&quot;</td>
<td></td>
</tr>
<tr>
<td>Medical Devices</td>
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</tr>
<tr>
<td>-----------------</td>
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</tr>
<tr>
<td>1. Maximize participation and transparency in the regulatory process.</td>
<td></td>
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</tr>
<tr>
<td>2. Establish a rational system for medical device reimbursement.</td>
<td></td>
<td></td>
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<tr>
<td>3. Streamline the medical device review system and make it more transparent and consistent.</td>
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</tr>
<tr>
<td>4. Allow information related to medical devices to be shared with the public.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Others - Chiropractic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Address public concerns before seeking drastic changes in tobacco tax policies.</td>
</tr>
<tr>
<td>2. Consult widely within government and with stakeholders before adopting tobacco regulatory measures to avoid international trade disputes and other unforeseen consequences.</td>
</tr>
<tr>
<td>3. Remove the requirement that the initial dossier submission include field efficacy studies.</td>
</tr>
<tr>
<td>4. Allow information related to medical devices to be shared with the public.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Others - Tobacco</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Reduce the pre-market registration time.</td>
</tr>
<tr>
<td>2. Maintain transparency in adopting tobacco control policies.</td>
</tr>
<tr>
<td>3. Streamline the medical device review system and make it more transparent and consistent.</td>
</tr>
<tr>
<td>4. Address public concerns before seeking drastic changes in tobacco tax policies.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Others - Veterinary Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Establish a rational system for medical device reimbursement.</td>
</tr>
<tr>
<td>2. Allow local lab and field studies to proceed concurrently with the dossier review.</td>
</tr>
<tr>
<td>3. Address public concerns before seeking drastic changes in tobacco tax policies.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Pharmaceutical</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Continue to strengthen IPR protection for innovative products, so as to ensure that the investment environment rewards innovation.</td>
</tr>
<tr>
<td>2. Expedite the regulatory and reimbursement reviews of new drugs/indications to ensure early patient access to innovative new drugs.</td>
</tr>
<tr>
<td>3. Provide more funding to the healthcare system to enable it to meet future challenges.</td>
</tr>
<tr>
<td>4. Put increased emphasis on preventive medicine, including increasing the budget for vaccination and stabilizing the National Vaccine Fund.</td>
</tr>
<tr>
<td>5. Increase evidence-based investment in cancer prevention and treatment to reduce the economic burden and loss of life.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Public Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Actively implement a national program for the prevention and control of viral hepatitis.</td>
</tr>
<tr>
<td>2. Improve the clinical alert system for better patient protection.</td>
</tr>
<tr>
<td>3. Expand the antimicrobial stewardship program to cut down the misuse of antibiotics.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Real Estate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Equalize property taxation for domestic and foreign property owners.</td>
</tr>
<tr>
<td>2. Enact reforms in the treatment of real estate value appraisers.</td>
</tr>
<tr>
<td>3. Simplify the urban renewal process to ensure housing safety and quality.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Retail</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Ensure that the food safety rules-making process is transparent, with the regulations based on scientific and statistical evidence.</td>
</tr>
<tr>
<td>2. Encourage a new era of self-regulation by the private sector.</td>
</tr>
<tr>
<td>3. Drop plans to penalize food-safety violators according to their amount of capital.</td>
</tr>
<tr>
<td>4. Recast the Cosmetics Act to avoid creating technical barriers to trade as well as drive regulatory transparency.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sustainable Development</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Scale up and accelerate development of renewable energy in general and offshore wind power in particular.</td>
</tr>
<tr>
<td>2. Allow dynamic spectrum access, such as unlicensed and shared access to unused TV broadcast channels, to increase spectrum utilization and efficiency.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Revisit the current tax policy on foreign business’ drop-shipment transactions in Taiwan.</td>
</tr>
<tr>
<td>2. Review Taiwan’s tax policies with the aim of creating a favorable and competitive environment for attracting high-caliber professionals.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Technology</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Enhance Taiwan’s Start-up eco-system as the Key to Maintaining its Technology Leadership</td>
</tr>
<tr>
<td>2. Assess the impact of workforce regulations on the tech sector’s competitiveness and adjust regulations based on industry best practices.</td>
</tr>
<tr>
<td>3. Expedite the legislative process for the “IT Foundation Law”</td>
</tr>
<tr>
<td>4. Use public-sector data governance to facilitate transition to the Cloud.</td>
</tr>
<tr>
<td>5. Allow dynamic spectrum access, such as unlicensed and shared access to unused TV broadcast channels, to increase spectrum utilization and efficiency.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Telecommunications &amp; Media</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Seek further public comment on the draft Convergent Law.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Transportation &amp; Logistics</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Establish an effective communication platform to improve transparency and efficiency in customs clearance regulations.</td>
</tr>
<tr>
<td>2. Encourage voluntary disclosure of export-control regime violations and make it easier for companies to check on potential importers.</td>
</tr>
<tr>
<td>3. Step up efforts to attract, train, and retain international standard hospitality professionals.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Travel &amp; Tourism</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Devote more effort and resources to expanding Taiwan’s MICE segment.</td>
</tr>
<tr>
<td>2. Vigorously promote the development of international branded themed entertainment to attract more international tourists.</td>
</tr>
</tbody>
</table>

Note: * indicates the issue has been raised again in 2017 White Paper by Erica Lai. Last Updated: May 19, 2017
### 2016台灣白皮書

《2016台灣白皮書》議題處理進度

#### 以下為《2016台灣白皮書》優先議題的處理進度，各議題評估標準如下：

1. **一已解決**: 政府已針對議題達成建議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. **二有具體進展**: 議題目前正由政府進行後續跟進，其進度令人滿意。
3. **三一覧中**: 政府相關單位已注意到該議題，但後續發展仍待觀察。
4. **四一概置中**: 議題無實質可見的進度。
5. **五已刪除**: 議題雖尚未解決，但已不再是委員會優先議題。

《2016台灣白皮書》所提出80項議題，其中0項已解決，8項處理中，41項觀念中，
26項置中，5項已刪除。

<table>
<thead>
<tr>
<th>委員會</th>
<th>2016白皮書議題</th>
<th>進度</th>
<th>2017年目標</th>
</tr>
</thead>
<tbody>
<tr>
<td>農化</td>
<td>1. 為促進數位化進行諮詢與溝通，並提供相關資料支援</td>
<td>3</td>
<td><strong>目前改為</strong>：系長已於2016年1月研擬數位化相關政策並公佈，並於2016年中旬完成相關立法，並全國性數位化推廣。</td>
</tr>
<tr>
<td></td>
<td>2. 發展農業數位化</td>
<td>3</td>
<td><strong>目前改為</strong>：系長已於2016年1月研擬數位化相關政策並公佈，並於2016年中旬完成相關立法，並全國性數位化推廣。</td>
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<tr>
<td></td>
<td>3. 發展數位化</td>
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<td><strong>目前改為</strong>：系長已於2016年1月研擬數位化相關政策並公佈，並於2016年中旬完成相關立法，並全國性數位化推廣。</td>
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<td></td>
<td>4. 發展數位化</td>
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<td><strong>目前改為</strong>：系長已於2016年1月研擬數位化相關政策並公佈，並於2016年中旬完成相關立法，並全國性數位化推廣。</td>
</tr>
<tr>
<td>資源管理</td>
<td>1. 為促進數位化進行諮詢與溝通，並提供相關資料支援</td>
<td>3</td>
<td><strong>目前改為</strong>：系長已於2016年1月研擬數位化相關政策並公佈，並於2016年中旬完成相關立法，並全國性數位化推廣。</td>
</tr>
<tr>
<td></td>
<td>2. 發展數位化</td>
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<td><strong>目前改為</strong>：系長已於2016年1月研擬數位化相關政策並公佈，並於2016年中旬完成相關立法，並全國性數位化推廣。</td>
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<td></td>
<td>3. 發展數位化</td>
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<td><strong>目前改為</strong>：系長已於2016年1月研擬數位化相關政策並公佈，並於2016年中旬完成相關立法，並全國性數位化推廣。</td>
</tr>
<tr>
<td></td>
<td>4. 發展數位化</td>
<td>3</td>
<td><strong>目前改為</strong>：系長已於2016年1月研擬數位化相關政策並公佈，並於2016年中旬完成相關立法，並全國性數位化推廣。</td>
</tr>
<tr>
<td>金融</td>
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### 醫療器材

1. 擴大與資訊公開
2. 建立合理的醫療器材建置給付制度
3. 養老市場服製品之品質與一致性
4. 同意讓醫療器材相關訊息及名單分享

### 其他-脊骨神經醫學

- 允許持有外國執照的脊骨神經醫師在符合於臺灣下執行醫務

### 製藥

1. 執續建立與強化創新產品的智慧財產權保護，確保品質創新及投資環境
2. 加速新藥及創新產物之審查及建給付，確保病患及早使用創新藥品
3. 注入更多資源於醫療照護及健保給付系統，以因應未來挑戰及永續經營
4. 強化國家健康保險及永續計畫
5. 積極建立國家藥物資本建設
6. 改善臨床醫學系統，維護生命安全
7. 擴大抗生素的整合管理以減少抗生素的濫用

### 公共衛生

1. 重視預防醫療，提升國家免疫預防，擴大穩定財源
2. 在疾病預防基礎上，提供醫療照護之發展，以降低醫療疾病及死亡人數
3. 建立國家藥物資本建設
4. 改善臨床醫學系統，維護生命安全
5. 擴大抗生素的整合管理以減少抗生素的濫用

### 不動產

1. 重視預防醫療，提升國家免疫預防，擴大穩定財源
2. 加速新藥及創新藥物之審查及建給付，確保病患及早使用創新藥品
3. 注入更多資源於醫療照護及健保給付系統，以因應未來挑戰及永續經營
4. 強化國家健康保險及永續計畫
5. 積極建立國家藥物資本建設
6. 改善臨床醫學系統，維護生命安全
7. 擴大抗生素的整合管理以減少抗生素的濫用

### 建設

1. 建立輕便之新制訂公司名稱及營業活動之稅制
2. 推動不動產投資稅改革，確保市場公開透明
3. 都市更新政策之會議及推動，形成城市新風貌

### 零售

1. 食品安全法的制定過程應當透明，並應對科學及統計上的證據為基礎
2. 政府應鼓勵建立民間企業自我規律的新時代
3. 重新檢討名目繁多之各類商業標準
4. 重新檢討名目繁多之各類商業標準
5. 基準測所（GMS）名稱標準化進展及指導政策

### 永續發展

1. 重視新藥及疫苗發展，尤其是減緩風力發電
2. 鼓勵再生能源之發展
3. 加強再生能源之發展
4. 加強再生能源之發展
5. 加強再生能源之發展

### 稅務

1. 重視預防醫療，提升國家免疫預防，擴大穩定財源
2. 建設環境稅及教育基金
3. 加強環境保護
4. 維持經濟成長及發展
5. 加強環境保護

### 科技

1. 強化華語的科技產業生態系統
2. 檢視台灣的科技業競爭力的影響及產業策略運用的研討與調整
3. 加強資本市場化
4. 加強資本市場化
5. 加強資本市場化

### 電信及媒體

1. 加強資本市場化
2. 檢視台灣的科技業競爭力的影響及產業策略運用的研討與調整
3. 加強資本市場化
4. 加強資本市場化
5. 加強資本市場化

### 運輸

1. 建立國家資本市場
2. 檢視台灣的科技業競爭力的影響及產業策略運用的研討與調整
3. 加強資本市場化
4. 加強資本市場化
5. 加強資本市場化

備註：*號代表該2016年議題於《2017台灣白皮書》中再度提出

研究組實：賴欣怡

更新日期：2017年5月19日
AGRO-CHEMICAL

The Committee would like to express its appreciation to the Bureau of Animal and Plant Health Inspection and Quarantine (BAPHIQ) and the Taiwan Agricultural Chemicals and Toxic Substances Research Institute (TACTRI), both under the Executive Yuan’s Council of Agriculture, and other government departments for continuing to actively investigate the market in illegal pesticides to ensure that the rights and interests of legal vendors and the health of Taiwan’s residents are protected. The Committee also commends BAPHIQ and TACTRI for simplifying the crop-extension process for products with the same active ingredients but with a different formulation or content. The measure will help significantly reduce the resources required by vendors for crop extension applications, as well as provide greater convenience to farmers.

In addition, the Committee appreciates the robust measures implemented by BAPHIQ for managing highly toxic pesticides to prevent misuse, and pledges to provide the initiative with its full cooperation and support. Moreover, we would like to thank TACTRI for establishing the “Health Venue” at the 2016 Sea of Flowers Festival to promote the safe use of pesticides and to correct public misconceptions about them.

The new pesticide registration system has now been implemented for seven years. With the active assistance of BAPHIQ and TACTRI, all vendors are on course and will gradually finish the registration of new products. To fully perfect the new system, however, some additional measures are needed. Below, the Committee provides its recommendations for the government’s reference on how to accomplish that goal.

Other issues raised this year concern establishing domestic measures for products with import tolerance approval, extending the protection period for registered data and for products aimed at minor crops, amending the Agro-pesticide Labeling Act, and revising the law prohibiting GM ingredients in school meals.

The Committee sincerely hopes that the competent authorities will accept our suggestions so as to promote the introduction of safer and greener new products to maximize the interests of consumers and the Taiwan agricultural sector, and to strengthen environmental protection and food safety to ensure the health of all those living in Taiwan.

Suggestion 1: Quickly complete drafting the “Guidelines for Pest Investigation in Field Trials” for major crop diseases, pests, and weeds in Taiwan.

The competent authorities have finished drafting “Guidelines for Pest Investigation in Field Trials” for some crops, but the Committee urges them to complete the guidelines for the remaining major crops as early as possible to lower the workload for both applicants and the authorities and to accelerate the review of trial protocols. The Committee requests that the competent authorities set up a definite schedule for completion of the Guidelines.

Suggestion 2: Establish domestic measures for products with import tolerance approval so that products with the same registered effective ingredients can be used in the same local crops.

Although an efficacy report is now required for import tolerance applications, necessary related measures have not yet been established. Because the documents required for the import tolerance application (including the efficacy report) are the same as the documents required for the expanded domestic registration application, we suggest that the authorities handle approval of the domestic registration and the import tolerance application at the same time. Otherwise, domestic and imported products having the same registered active ingredients cannot legally be used in the same local crops, and the confusion may inadvertently cause some farmers to break the law. The Committee looks to the competent authorities to solve this problem by amending the relevant regulations.

Suggestion 3: Extend the protection period for registered data and for products for minor crops.

3.1 Protection period for registered data. We appreciate that BAPHIQ included our suggestion for extending the protection period for registered data from eight years to 10 in the draft amendment of the “Agro-pesticide Management Act,” which was submitted for approval to the Legislative Yuan on July 22, 2016. In order to spur investment in the registration of more new products with low risk and high efficacy for the benefit of Taiwanese agriculture, the Committee urges the Council of Agriculture to encourage the Legislative Yuan to complete the legislative process as soon as possible for the sake of early implementation of the protection-period extension.

3.2 Registration period for products for minor crops. Currently, registered data is protected for 10 years in the United States but another three years is provided for products for minor crops. We suggest that Taiwan encourage vendors to register products for minor crops by following the U.S. model in extending the protection period.
Suggestion 4: Amend the law to require that labels include a pesticide’s mode of action number.

The Committee is concerned about the increasingly serious problem of pesticide resistance and believes that supplementary legal measures are needed, in addition to strengthened training of farmers, in order to effectively mitigate pesticide resistance. Our suggestion is to amend the Agro-pesticide Labeling Act to require that pesticides’ mode of action number be listed on labels. Making it easier for farmers to recognize the mode of action will help mitigate the problem of pesticide resistance.

Suggestion 5: Allow GM ingredients to be used in school meals.

The Committee, the competent authorities, and the public all care deeply about the safety of school food. However, Article 23 of the School Health Act (SHA) as amended and implemented in 2015 – prohibiting schools from using raw or fresh foods that contain genetically modified ingredients or primary products made with them – was adopted without solid scientific evidence and eliminates GMO foods accredited by the Ministry of Health and Welfare (MOHW) from the approval list. For those reasons, and because the law is inconsistent with Taiwan’s obligations as a member of the World Trade Organization (WTO), the Committee urges reconsideration of this measure.

5.1 Follow WTO notification procedures before implementing legislation concerning international trade.

In accordance with Article 7 of the WTO’s Agreement on the Application of Sanitary and Phytosanitary Measures (“the SPS Agreement”), Taiwan as a WTO member is obliged to give notification of any changes in SPS regulations. Article 23 of SHA banning GM ingredients and primary processed products in school meals for food safety considerations directly impacts Taiwan’s import trade. Consequently the government has an obligation to notify the WTO’s SPS Committee of this change.

5.2 Revise SHA Article 23 to remove the ban on GM ingredients and primary processed products in school meals. Articles 2.2 and 5.1 of the SPS Agreement require sufficient scientific evidence and the conducting of risk assessments for all SPS measures that may affect international trade. Taiwan’s ban on GM ingredients and primary processed products in school meals should not have been implemented without going through that process. Further, the health risk assessment regarding all GM ingredients to be used for food processing was conducted and approved by the MOHW. Many items allowed under that assessment are banned by Article 23 of SHA. The law should therefore be amended to remove the ban on GM ingredients and primary processed products in school meals, and adequate scientific consultations and risk assessment mechanisms should be established within the legislative process to safeguard Taiwan’s reputation for adhering to a science-based approach in setting regulations.

5.3 Avoid legislation that imposes quantitative restrictions on imported products, discriminating between imported and domestic products. In banning GM ingredients and primary processed products in school meals, Article 23 of SHA discriminates against imported agricultural products as the supply of GM ingredients in Taiwan relies completely on import trade. As a result, this measure may constitute an import restriction that contravenes Articles XI:1 and III:4 of the General Agreement on Tariffs and Trade (GATT), to which Taiwan is a party.

**ASSET MANAGEMENT**

The Committee notes with gratitude that the Financial Supervisory Commission (FSC) set certain important goals last year aimed at building a better investment environment and achieving financial product innovation. The Committee also recognizes the FSC’s efforts in promoting fintech and a mutual fund investment platform, as well as local talent development. These reforms and the new policy agenda are in line with the Committee’s expectations and will ultimately benefit investors in Taiwan. We look forward to seeing more regulatory relaxation, especially the lifting of investment restrictions on onshore and offshore funds in the near future, so as to increase the Taiwan asset management industry’s competitive advantages, offer more business opportunities to industry participants, and provide consumers with wider investment choices.

In addition, the Committee would like to express its appreciation to the FSC for introducing a new type of onshore fund – the multi-asset fund – and allowing an onshore fund of funds to invest in certain derivatives for investment enhancement purposes. These steps represent a positive response to the industry’s advocacy last year in support of product innovation. The FSC’s decision to permit discretionary investment management accounts to engage in currency hedging arrangements through investment-linked insurance products and to purchase the foreign-currency share class of NTD-denominated onshore funds also enables the asset management industry to strengthen its business relationship with insurers. Furthermore, the FSC’s dedication in helping resolve the onshore fund “overdraft” issue and proxy voting delegation issue earned it a great deal of respect from industry players. All these changes demonstrate the FSC’s vision and ambition to upgrade Taiwan’s asset management business and bring it in line with global practice.

The Committee looks forward to cooperating with the FSC to further grow the onshore-fund business and continuously attract more local talent to work in the
industry. While revisions to the Securities Investment Trust and Consulting Act will have a significant impact on the industry, we hope that the draft amendments will contribute to building a better regulatory framework for Taiwan’s asset management industry by increasing the competitiveness and operational flexibility of onshore products, assuring a level playing field between onshore and offshore funds, and relaxing investment restrictions on onshore products.

The Committee also urges the FSC to closely work with the Ministry of Labor on implementation of the Self-Choice Labor Pension Scheme, as it is critical to every worker’s retirement arrangement and should partially solve the current difficulty the government is facing with the Labor Pension Fund. In sum, the Committee strongly encourages the FSC to continue to adopt changes enabling the Taiwan asset management industry to meet the constantly evolving needs of investors.

**Suggestion 1: 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 profiles so that employees may choose either to invest aggressively in hopes of gaining higher returns for their retirement income or 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, level of risk tolerance, and preferred investment management vehicle. As a result, employees lack control over their investment risks and returns, which is inconsistent with the purpose of a “defined contribution” plan.

The FSC appears to support the idea of transforming 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). But decision-making authority on this issue rests with the Ministry of Labor (MOL). We urge the MOL’s Bureau of Labor Funds to adopt a policy that would enable employees to choose a retirement plan based on their individual needs and risk appetite – 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 a member choice platform according to their risk appetite. Considering the continuing low interest-rate environment, the rapid aging of Taiwan’s population, and the need for employees to be able to choose from among diverse retirement plans, the Committee strongly encourages the MOL to expedite the process for implementing a member-choice labor pension scheme.

**Suggestion 2: Promote the “AUM-based” methodology for calculating distributors’ commissions on fund sales.**

The current design of distributors’ commission on fund sales creates a potential conflict of interest by giving a financial incentive to the distributor to influence clients to conduct frequent trading so that the distributor can earn higher commissions. This commission-driven design not only causes Taiwan investors to bear additional costs due to the extensive trading, but also has a negative impact on Taiwan’s asset management industry. The adverse effects include large redemptions after IPOs for new funds, with an impact on long-term investors’ Net Asset Value (NAV); volatility in the funds’ Assets Under Management (AUM) due to the higher turnover caused by extensive trading, leading to increased difficulties in investment management; and a culture in which Taiwanese investors treat mutual funds more like stocks, looking for short-term gains while paying high front-end fees to distributors each time they trade in. For asset managers, the commission model causes financial losses as a result of large commissions to distributors, who often only hold the funds for short periods.

In various jurisdictions, including the United Kingdom, Australia, Canada, and many Asian countries, the authorities’ main focus in recent years has been to seek an optimum policy governing the transparency, calculation, and payment of commissions on fund sales, as well as the protection of investors’ rights and interests. The United Kingdom and Australia have prohibited financial advisors from receiving commissions on fund sales, as well as the protection of investors’ rights and interests. The United Kingdom and Australia also impose a similar restriction in 2013. The European Union also proposed restrictions on sales commissions in its Markets in Financial Instruments Directive II (MiFID II).

The Committee appreciates the efforts of the Securities & Futures Bureau (SFB) in trying to address this issue, including the SFB’s proposed two-step policy for commission calculation reform: first set a cap on the percentage of the net additional subscription applied to the commission calculation and then move gradually toward an “AUM-based” methodology as the ultimate aim. AUM-based methodology means the fees that a fund house pays to a distributor are based on the AUM that stays with the distributor, not based on the transaction amount that a distributor can make during a specific time period. Currently, the fees are based on the transaction amount, which wrongly incentivizes the distributor to churn funds frequently.

However, the Committee believes that the proposed first step, the commission cap, does not adequately address the issue and may in fact cause hardships, particularly to managers of smaller asset funds. More importantly, the cap may not be able to sufficiently address the key issue that Taiwanese investors face, which is the churning behavior of the distributors. Our recommendation is to move as
quickly as possible to the AUM-based fee approach, as other jurisdictions have. We recognize that this may put some pressure on the banking industry in the short run, but the benefit will be immediately felt by Taiwanese investors. Only when the “AUM-based” methodology is adopted will the high turnover rate of Taiwan-domiciled funds and the high volume of redemptions after the lock-up period be reduced. This change will also reduce the undue solicitation of clients to conduct extensive trading and help investors begin to take a more long-term approach to their investments.

**Suggestion 3: Remove the cap on offshore funds’ investment in securities in the China market.**

The securities market in China is gradually increasing access for foreign investors by introducing such mechanisms as Shanghai-Hong Kong Stock Connect and Shenzhen-Hong Kong Stock Connect. Professional investors in Taiwan can now directly participate in the Chinese securities market via sub-brokerage services. However, mutual funds remain the key investment tool for most retail investors interested in the Chinese securities market.

As the importance of the Chinese market continues to grow, the weighting of the Chinese equity market among major market indices will likely increase in the near future. In that event, offshore funds benchmarking related market indices may hit the cap imposed by current regulation. To provide retail investors with more comprehensive investment choices and avoid any adverse impact on the operations of existing offshore funds, we recommend removal of the cap on offshore funds’ investment in securities in the Chinese market.

**BANKING**

The banking market in Taiwan has been volatile in the past year due to the risk of unexpected “black swan” incidents, the plunge in oil prices, and post-Brexit uncertainties. These factors exemplify the influence of global economic developments on Taiwan financial institutions. The retreat of some international banks from Taiwan has also contributed to making the banking market in Taiwan quite challenging, but government efforts to liberalize Taiwan’s financial sector have helped to reduce the impact of uncertain global conditions. We look forward to continuous liberalization measures by the government to attract more foreign institutions to participate in the market and bring more business opportunities to Taiwan from neighboring financial hubs.

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 Committee highly appreciates the business models created by the Financial Supervisory Commission (FSC), including the “Bond Agency Platform” and the “Financial Derivative Information and Advisory Service,” which have created 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.

The Committee wishes to thank the Taiwan financial authorities for paying extra attention to last year’s White Paper and taking satisfactory follow-up actions. In this year’s paper, we have focused our attention on four main issues, all of which we believe can be resolved in the coming year. In view of the FSC’s desire to expand Taiwan’s financial market and increase job opportunities, the first step in that effort should be to ease the operational and regulatory standards that have been adopted internationally. In this way, Taiwan’s financial industry would not only become more competitive versus neighboring financial markets such as Hong Kong and Singapore, but talent and business opportunities could also be retained in Taiwan.

**Suggestion 1: Further broaden opportunities for offshore product development and distribution.**

In recent years the relevant government agencies in Taiwan have taken positive steps with regard to broadening financial product offerings, in line with the theme of promoting the Taiwan market internationally. However, industry perceives that more could be done to help foster market growth by permitting an even greater variety of financial instruments so as to satisfy differentiated risk-return demands.

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.**

As raised in this White Paper for the past several years, regulatory restrictions since 2011 on issuer credit-rating requirements have significantly decreased the number of issuers who can issue offshore structured products to retail investors in Taiwan – a situation that has practically brought the OSP market in Taiwan to a standstill. Although the FSC lowered the OSP issuer rating to S&P A+ (or Fitch A+ and Moody’s A1) in 2014, the change did not significantly improve the market situation. Taiwan investors still need to pursue investment opportunities from offshore markets in 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 at least to A- as in Hong Kong.

It is also important to recognize that the OSP issuers in
Taiwan are the leading global banks, which are subject to stringent capital requirements and supervision in their home markets. Internationally it is no longer standard practice to use the issuer rating as the sole reference in determining the financial status of the issuer. If it were to lower the issuer-rating requirement, the regulator at the same time could utilize other financial criteria that would more truly reflect the financial status of the issuers. The Committee believes that adopting this approach would assure that investors’ interests continue to be protected effectively.

1.2 Allow applicants to apply for a six-month extension if the product is not offered before the original approval expiry date.

According to the Article 18 of the “Regulations Governing Review and Management of Offshore Structured Products,” the applicant shall start offering the product within six months after receiving the approval letter; otherwise, the applicant needs to submit a product review request and get product approval again before offering the product, unless otherwise specified by other laws. The current product review process takes around three months from submission of the request until receipt of the approval letter, and market conditions sometimes change considerably, making it difficult for the applicant to find a suitable timing to offer the product within the allotted six months. Resubmitting the product request with the same payoffs is not efficient for the applicant, the review committee, or the distributor. Therefore, we suggest that the regulators amend the regulations to allow the application to be automatically extended for another six months if the product is not offered before the original approval expiry date, or alternatively for the applicant to send a notification letter to the regulator regarding the six-month extension.

1.3 Expand the product scope available under the “bond-agency” platform.

Despite the generally positive response from regulators to the industry’s longstanding appeal for a relaxation of restrictions on financial products, the continuing restrictions on bond-agency product scope prevent Taiwanese institutional and ultra-high net worth investors (“Eligible Investors”) from obtaining a full scope of services from onshore financial institutions. As a result, Eligible Investors need to engage offshore financial institutions for certain types of transactions, creating unnecessary obstacles for Eligible Investors’ portfolio management and stifling further growth in the bond-agency business.

Although existing regulations have laid a foundation for onshore bond agency platforms to provide “plain vanilla” cash bond products, certain other products that are of interest to Eligible Investors and allowed to be purchased by the respective competent authorities are excluded from the scope of bond agencies’ business. These include People’s Republic of China (PRC)-linked bonds and overseas bonds issued by Taiwanese issuers. If the product scope is not further expanded, Eligible Investors will increasingly turn to offshore financial institutions in other markets (such as Hong Kong and Singapore) to purchase the relevant products, which would be contrary to the objectives of the FSC’s “Financial Import Substitution Policy.” Furthermore, “PRC-linked bonds” as defined in the existing regulations include bonds listed on the Hong Kong and Macao exchanges if the issuing enterprises are directly or indirectly owned by the government or corporates in the PRC. These securities are excluded from the scope of legitimate investments. The criteria as defined in the regulations increase the compliance and supervisory costs involved, given the difficulty of verifying the identity of the major shareholders for each issuer. The Committee suggests abolishing the current regulatory restrictions on tradeable markets and the country of origination of issuers for the bond-agency business, thus expanding the scope of products that Eligible Investors are permitted to purchase.

1.4 Relax the net worth requirement for conducting repo/reverse repo under foreign bond proprietary licenses.

Foreign banks concurrently engaging in the foreign bond proprietary trading business have encountered an obstacle in applying the total repo/reverse repo (“RP/RS”) outstanding position as stipulated in Articles 8 and 9 of the “Rules Governing the Proprietary Trading of Foreign Bonds by Securities Firms” (the “Rules”) of the Taipei Exchange (TPEx). The Rules provide that:

- The respective outstanding balances of RP and RS against foreign bonds and TWD government bonds shall not exceed six times the securities firm’s net worth;
- The respective outstanding balances of RP and RS against bonds other than TWD government bonds shall not exceed four times the securities firm’s net worth; and
- The respective outstanding balances of RP and RS against foreign bonds shall not exceed the securities firm’s net worth.

The definition of “net worth” as provided in the Rules seemingly refers to the security book’s net worth for banks concurrently engaging in the foreign bond proprietary trading business. However, the setup of a foreign bank’s branch in Taiwan only requires working capital of either TWD 200 million or TWD 250 million depending on the criteria. As a result, the net worth of foreign banks’ branches in Taiwan is very small, as it normally includes only the working capital plus
unrepatriated retained earnings. In addition, the security book’s net worth is allocated from the foreign bank branch’s net worth and thus is even much smaller than that of the foreign bank branch. This obstacle hinders foreign banks in Taiwan from conducting RP and RS against foreign bonds. Consequently, foreign banks – as the main foreign currency liquidity providers in Taiwan – cannot provide the required foreign currency funding to local investors when needed. These investors (including the Central Bank) then have no choice but to obtain the liquidity from offshore banks.

The Committee therefore suggests that the FSC relax the definition of net worth under the Rules by benchmarking the net worth of a foreign bank’s home office (or foreign bank subsidiaries). This change would help establish a thriving and robust bond market in Taiwan and contribute to a healthy liquidity mechanism.

1.5 Further relax regulations governing the “derivatives information and advisory” business.

A) Broaden the definition of an entity’s size to include the entire group, to better capture the corporate client’s business model and allow banks to provide suitable product services.

In its “Amendments of Banks Providing Information and Advisory Service on Offshore Financial Derivatives” issued on June 21, 2016, the FSC agreed to expand the eligibility of High Net Worth Investors (HNWI) to include the parent company and its 100%-owned overseas subsidiaries. However, under the current “Regulations Governing Internal Operating Systems and Procedures for Banks Conducting Financial Derivatives,” the HNWI eligibility does not include the 100%-owned overseas subsidiaries. The banks must use the applicant’s stand-alone financial statement (consolidated financial statements are not acceptable) to validate the applicant as an HNWI, but these stand-alone financial statements may not meet the HNWI requirements or may even be unavailable.

In the interest of consistency and to avoid confusion, we suggest allowing the banks to use the information on the applicant in the parent company’s consolidated financial statement to verify the applicant’s financial condition. 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.

B) Permit SPIs and their 100%-owned offshore subsidiaries to engage in the “derivatives information and advisory” business for investment purposes.

The Committee much appreciates the FSC’s action in June 2016 in expanding banks’ service scope to enable them to provide “derivatives information and advisory business” to Senior Professional Investors (“SPI”) and their 100%-owned offshore subsidiaries that have hedging eligibility. However, the opening of the derivatives information and advisory business to SPIs is limited to offshore derivatives for hedging purposes. The same restriction does not apply to Professional Institutional Investors (“PII”) such as banks, insurance companies, and securities firms.

Based on clarifications given by the FSC, the offshore derivatives for hedging purposes exclude Offshore Structured Products (“OSP”) as their purpose is considered to be for investment rather than hedging. However, the super-large corporates meeting the definition of SPI and their 100%-owned offshore subsidiaries have a great demand for offshore investment products – but they have been unwilling to invest in OSPs via the distribution channel pursuant to the “Rules Governing OSP” as that channel is under the trust structure. SPIs conduct business globally and actively look for investment opportunities in different regions and sectors. Treating SPIs the same as PIIs would help them meet their investment needs, achieve better efficiency for OSP investments, and strengthen the sustainability of Taiwan’s financial market development. In addition, allowing the advisory license to cover OSPs would not only increase the competitiveness of foreign banks in Taiwan against offshore banks, but also support the government’s Financial Import Substitution Policy.

The Committee suggests that the “derivatives information and advisory business” be further relaxed to allow the SPIs and their 100%-owned offshore subsidiaries to acquire OSPs for investment purposes, thus strengthening the competitive position of banks in Taiwan against offshore banks.

Suggestion 2: Lift regulatory restrictions and provide an incentive framework for the onshore wealth management business.

2.1 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 recent regulatory change enabling clients to use their mutual fund assets under trust as collateral to obtain financing from a third-party bank. However, the lengthy operational process has retarded the development of this practice. We therefore urge the government to move one step further by allowing
financial assets under trust from the Trust Bank to be used as collateral for loans from that bank. In international practice, investment-product financing is a very common wealth-management service, which 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 of borrowing, 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.

2.2 Encourage and provide policy incentives to banks committing to business expansion and investments onshore.

According to recently released statistical data on international capital flows, Taiwan has been consistently suffering from a low level of foreign direct investment (FDI). Another sign of the harsh business environment in the domestic banking sector has been the withdrawal from the Taiwan market or downsizing of the local presence by several international financial institutions. Given that FDI is a key KPI and strategic-development goal, this Committee considers it imperative that the government overhaul the existing regulatory policies and practices to rebuild Taiwan as an FDI-friendly environment.

To achieve this goal, this Committee proposes that the financial regulatory agencies adopt a differential regulatory framework for the banking sector. A metric approach factoring in the characteristics currently targeted in regulatory policy targeting – for example, onshore business volume, employment scale, and track records of internal controls, etc. – could be adopted to complement the new regulatory framework. The application of the differentiated regulatory approach could include:

- **New business and product offerings.** The government should provide incentives to encourage international banks with a local presence to expand their business operations and scope of product offerings. Given the expanded business opportunities, international banks would make further investments in their onshore operations. Among the areas of business potential that could be granted to international banks with high scores in the metric system are the approval of new business to new clientele, new structured products, and innovative financial products.

- **Express approval process.** To facilitate new business licenses and product applications, the government should adopt a streamlined approval process to shorten the lead time for product launches.

- **Reduce the initial minimum threshold for new business.** Lower the headcount and initial capital requirements for new business applicants, and/or allow staff to engage in multi-tasking across businesses within functional divisions. The recognized “supervisory sandbox” concept could be applied.

- **Reduce the intensity of surveillance.** The frequency of onsite examination/inspection could be adjusted by means of a risk-based system that takes into account the metrics of the differential regulatory approach.

**Suggestion 3: Further relax regulations on international bond business.**

3.1 Cancel the “Liquidity Provider of Formosa Bond” requirement on retail Formosa Bonds.

The “Liquidity Provider of Formosa Bond” (LPFB) system was adopted in early 2016 to improve the poor secondary market liquidity of the Formosa Bond “professional board” market. But the lack of secondary market transactions was because most bonds were held by professional institutional investors, such as insurance companies or banks, who tend to buy longer tenor bonds and hold them to maturity. They have no interest in trading the bonds via the secondary market. The best way to improve the secondary market would be to introduce different types of investors into this market by promoting a Formosa Bond “retail board,” where the demand would be mainly in short-tenor bonds, and the volume of secondary market transactions would be greater since the bond-holders would consist of hundreds or thousands of retail investors.

But the LPFB system requires that if a Formosa Bond’s tenor is less than seven years, the underwriter has to appoint a Liquidity Provider to quote both bid and offer prices. Since the underwriter usually quotes a bid price only and not an offer price, the underwriter needs to hold some of the bonds instead of allocating all of them. But
the funding costs for the security house are usually very high, thus discouraging underwriters to do retail bonds, which is detrimental to secondary market liquidity. To remedy this situation, we suggest canceling the LPFB requirement on retail Formosa Bonds.

3.2 Revise the filing requirements for retail Formosa bonds. Current retail Formosa bond filing requires an audited financial report for the “previous immediate three years.” But for most companies, whether corporate or banks, audited reports are available only in March or April, with the result that no retail Formosa bond can be issued in the first three months of every year. It is also difficult to issue them in December (due to the duration of listing and distribution activities).

We suggest replacing the “previous immediate three years” requirement with the submission of audited financial reports for the “last available three years plus the latest quarterly report.” This change would be in line with international market practice, promote the Formosa bond market, and benefit investors by providing them with more timely buying opportunities.

Suggestion 4: Reduce the withholding tax rate to zero on foreign investors’ income from Taiwan international bonds issued by local issuers.

The FSC has been actively promoting the development of the Taiwan international bond market, including Formosa bonds, since 2013. Given the recent upward trend in this market, the Committee believes that making the environment more foreign-investor friendly could further substantially boost Taiwan’s international bond market.

For foreign investors to participate in the Taiwan international bond market, Euroclear and Clearstream had to set up a linkage with the Taiwan Depository & Clearance Corp. (TDCC) in 2014. With that linkage, foreign investors can invest in Taiwan international bonds without applying for a FINI (Foreign Institutional Investor) ID and appointing a local custodian. However, this deregulation did not bring significant foreign inflows due to the uncompetitive, high withholding-tax rate.

Under current tax regulations, when foreign investors hold Taiwan international bonds issued by a local issuer, the income derived is subject to a 15% withholding tax (WHT), whereas other Asia markets do not impose any WHT on foreign investors’ income derived from similar instruments (such as the Hong Kong Dim Sum bond). The 15% WHT tax makes Taiwan international bonds less appealing to foreign investors.

To increase the competitiveness of Taiwan international bonds in today’s business environment, the Committee recommends a reduction in the 15% WHT tax rate to 0% to attract more foreign investments and fuel more growth and liquidity in international bonds in Taiwan.

CAPITAL MARKETS

The Committee appreciates the willingness of the regulators to listen to industry’s concerns on an on-going basis. Nevertheless, we wish to emphasize again that Taiwan’s capital markets need to adopt practices that are in line with international standards and strengthen Taiwan’s international competitiveness. In this regard, we continue to present suggestions that support the growth of Taiwan’s capital markets. The Committee members stand ready to assist the Taiwan government in its endeavors to create a fair, open, and competitive financial-services environment in the interest of boosting Taiwan’s financial industry development.

Suggestion 1: Enable the establishment of unsponsored ADR program representing Taiwanese listed equity securities.

As one of the laudable deregulation efforts undertaken by the Financial Supervisory Commission (FSC), since 2014, the FSC has permitted Taiwan-listed companies to issue non-capital-raising depository receipts (known as Level 1 ADRs) on over-the-counter markets in the United States. Considering the need of Taiwan-listed companies to reach a broader investor base, which would benefit the diversity and stability of the shareholder structure and permit better price discovery for fair stock-price valuations, the Committee recommends further amendment of the rules on overseas securities offerings and local securities transactions to allow the establishment of unsponsored ADRs.

Today, foreign investors that have gained Foreign Institutional Investor (FINI) qualification play an important role in the Taiwan stock market, on average accounting for about 25% of the daily trading volume. However, additional overseas investors who would like to access the Taiwan market are currently restricted from doing so due to their lack of FINI-qualification status. Included in this group are U.S. investment managers who have specific U.S. dollar mandates and can only hold and trade U.S.-registered securities. Issuing unsponsored ADRs would provide another way for Taiwan-listed issuers to enhance their global visibility and access additional capital from overseas investors who lack FINI status.

Allowing the creation of unsponsored ADRs for Taiwan securities – based on stock bought in the secondary market and kept with a local custodian bank – would help boost the momentum of the Taiwanese stock market through the deployment of capital flows from additional foreign investors. Taiwan brokers would benefit from the increased commission earnings, given the increased market liquidity and transaction volume. The Committee therefore strongly recommends amending the rules to allow the establishment of unsponsored ADRs.
Suggestion 2: Relax securities investment rules to allow wider participation, fostering market growth.

2.1 Allow brokers to provide short-term trading strategies to professional investors. Article 3 of the “Operational Regulations Governing Securities Firms Recommending Trades in Securities to Customers” stipulates that securities firms may make recommendations regarding securities only when those recommendations are based on research reports. We suggest allowing salespersons to provide short-term trading strategies to professional investors in accordance with the most updated market conditions and public market information without reference to research reports.

A research report analyzes the long-term trend of a security, and the analyst’s view of the security also represents a long-term judgment. As stock market conditions fluctuate over time, it is highly possible for a conflict to arise between the long-term analysis and the short-term reality.

The institutional investor conferences held by listed companies are among the important factors influencing stock prices. Usually an obvious change in stock prices will occur right after the conference. Yet it takes time for a research report incorporating the content of the conference to be written and published, making it impossible for the research report to immediately reflect the changes in the market or promptly update the target price and trade recommendation. As a result, the stated trade recommendation for the stock may temporarily contradict the current market trend. In this situation, it would be meaningless to make a recommendation if it must still be based on the research report.

Moreover, the value of sales personnel is to serve clients. Providing timely trading strategies in light of current market conditions is a great opportunity for salespersons to offer extra value-added service to clients. On the other hand, if salespersons are not allowed to communicate the most updated market conditions to their clients, it devalues their service and could lead to a less active stock market.

2.2 Exempt exchange-listed convertible bonds from the 30% limit of total net remitted-in capital. The Committee appreciates that in March 2017, the Taiwan Stock Exchange exempted private-placed convertible bonds from the 30% limit on fixed-income investments. To encourage FINIs to invest more in Taiwan’s equity market rather than the fixed-income market and to minimize potential currency speculation on the Taiwan Dollar, FINIs are subject to a 30% limit for total net remitted-in capital for their investment in government bonds, money market instruments, premiums paid and net settlement amounts for certain derivatives, and corporate bonds and bank debentures.

The Committee understands the purpose of the policy and appreciates the regulators’ continuous effort to engage in market scrutiny and monitoring. But we would also point out that convertible bonds are an important tool for listed companies to raise capital and also a common way for investors to participate in capital markets. Convertible bonds generally carry a low interest rate and can be converted into a predetermined amount of the underlying company’s equity at certain times during the bond’s life, usually at the discretion of the bondholder. In most markets globally, they are categorized as equity rather than fixed-income instruments. As the terms of convertible bonds are relatively more complicated than individual stocks, the investors in convertible bonds are normally institutions.

FINIs were the key investors in Taiwan convertible bonds for a long time and constituted important providers of liquidity to the market. However, including convertible bonds within the calculation of 30% fixed-income investments led to the general withdrawal of FINIs from Taiwan’s convertible bond market. Besides seriously impacting the liquidity of convertible bonds in the secondary market, the FINIs’ departure from convertible bond investments also created difficulties for the pricing and public offering of convertible bonds in the primary market. In view of the negative effect on Taiwan’s capital market, the Committee suggests exempting exchange-listed convertible bonds from the calculation of the 30% limit on fixed-income instruments for FINIs.

2.3 Develop a suitable system for FINI participation in competitive auction IPO/SPO activity. According to a new ruling effective in 2016, investors intending to participate in a competitive auction initial or secondary public offering (IPO or SPO) must go to their designated securities firm in person to directly input their bidding orders via the online bidding platform or through an electronic certificate issued by a brokerage firm. This ruling may not cause undue inconvenience for local investors, but it constitutes a serious obstacle for FINIs, who by definition are non-resident. In addition, the online bidding platform is in Chinese language only.

To allow smooth participation by FINIs in IPOs/SPOs, the Committee urges the securities regulators to allow them to engage in direct IPO/SPO bidding by sending instructions to their designated brokers for processing on the clients’ behalf – or alternatively to create an English-language platform so that FINIs may bid directly from overseas.

Suggestion 3: Align OBU set-up criteria with that of OSUs to create a fair and consistent standard across industries.

In February 2014, the FSC announced a new set of rules governing the establishment of Offshore Securities
Units (OSUs), allowing foreign investors to access offshore products and services through an OSU set-up. Although 17 local securities firms were engaged in the OSU business as of February 2017, foreign securities firms have still been kept out of the OSU sector due to the high net-worth requirement for setting up an OSU (NT$10 billion for full license services). The high threshold constitutes a market-entry barrier for foreign securities firms.

In comparison, according to Central Bank statistics from January 2017, the 24 Offshore Banking Units (OBUs) operated by foreign banks – out of the total of 62 such units – had assets of US$23.6 billion, accounting for 12% of total OBU assets. Almost every foreign bank has set up an OBU apart from its Domestic Banking Unit. The much lower net-worth requirement for offshore banking has led to a booming market for OBUs. It is also noteworthy that the OBU capital requirement for local banks is mainly based on a calculation of capital adequacy, which conforms to international financial practice by considering the main risks of the product, client, and market. This model balances business growth and risk-control governance.

The Committee proposes replacing the minimum capital threshold for OSUs with a requirement similar to that applied to OBUs, basing the capital adequacy on a risk-weighted assets methodology derived from the securities firm’s business activities. This change would increase the number of qualified market participants, as well as overall OSU transactions and the profits from diversified product platforms offered by foreign securities firms. It would also help to retain professional talent in Taiwan and broaden the market scope for Taiwan’s financial industry. In line with the regulator’s objective of promoting Financial Import Substitution, the relaxation of OSU criteria would expand job opportunities and contribute to producing a fair and open financial environment in line with the goal of boosting Taiwan’s capital markets.

**Suggestion 4: Enhance market efficiencies and competitiveness.**

4.1 Allow brokers to outsource certain operations. In the 2016 White Paper, the Committee suggested that brokers be allowed to appoint Account Operators. We appreciate the feedback received from the National Development Council, recommending that this proposal be raised with the Taiwan Securities Association. No meaningful progress has been made on this issue, however, as the established global name brokers who are most supportive of the Account Operator proposal are a distinct minority with limited influence in the Association. We therefore wish to raise this initiative again this year, particularly after noting the trend in the global broker community to seek more efficient operating models worldwide. 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). The rationale is to provide a flexible operating structure that replaces fixed costs with variable costs, enhances liquidity and funding capability by leveraging support from the Account Operator bank, and lowers the cost of market entrance. The Committee recommends relaxing current regulations to allow brokers to outsource various operations to an AO services provider, including such functions as securities and cash settlement processing, safekeeping, asset servicing, reconciliation, reporting, statement generation, etc. The benefits to the market would include the following:

- **Flexible cost structure.** Brokers will be able to reduce their fixed cost whenever declines in the revenue line cause brokers to face either smaller margins or a loss. The variable cost under the AO model will enable brokers to maintain their operating margin, as the model requires them to incur costs only when transactions occur. Broker-dealers can then 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 may benefit from intraday funding provided by the AO bank. Should their FINI customers fail to make cash payments to them on the settlement day, the brokers are still required to make payment to the exchange on the settlement day using their own working capital or funding from their cash bank. Given their better understanding of the overall settlement and funding process, the AO bank may have a larger credit appetite and be willing to grant more intraday or overnight credit facilities to brokers. This credit facility will allow brokers to obtain funding sources while sorting out the failed payment issues with the FINI customers. As a result, brokers’ liquidity risk can be better managed and they may feel less need to check the availability of cash in the customer’s account on T+1.

- **Greater 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 increases in volume and long-term growth.

- **Reduced market entrance cost for newcomers.** The AO model will be an additional option for brokers to choose from in addition to the traditional market offering, giving them more flexibility in finding the
optimum business model for their business. Allowing AO services in Taiwan is expected to attract more mid- and small-size foreign name brokers to enter the Taiwan market and indirectly channel more investment into Taiwan’s capital market.

4.2 Forgo Saturday trading to align with international practice and reduce settlement risk. Taiwan has been in a unique position globally in offering Saturday trading and settlement in the securities and futures markets. As the trading and settlement process implemented by institutional investors has become more and more automated, accommodating Taiwan’s Saturday trading and settlement requires additional manual set-up and testing which increase the costs and operational risks for securities firms and futures brokers. Due to the increasingly high participation of foreign institutional investors, we suggest that the regulators eliminate Saturday trading and settlement in line with global practice.

4.3 Develop electronic tax statements on FINI income. The Committee appreciates the Ministry of Finance’s continuous efforts to build an efficient tax-filing environment. According to a December 14, 2016 news release by the MOF, from January 1, 2017 the withholding party may e-file tax statements with the tax authority for cleared withholding tax. However, tax statements issued on FINIs’ income are still paper-based, requiring excessive time and effort by the local tax guarantors and agents/custodians for reconciliation, maintenance, and audit, as well as causing delay in the ability of FINIs to repatriate earnings. In the 2016 White Paper, the Committee requested the development of electronic tax statements on FINIs’ income, with direct access allowed by custodians and appointed tax guarantors to the FINIs’ e-tax statements. In the interest of market efficiency, the Committee suggests that the MOF instruct all withholding parties to issue e-tax statements to FINIs. The advantages would include a reduced workload for issuers and company registrars in handling tax statements, environmental benefits through decreased paper usage, and simplified and shortened processing and auditing time for local tax guarantors and agents. The change would also eventually facilitate FINIs’ repatriation needs as well as enable a data pool to be built up without physical filing.

4.4 Implement market standard practice in trade pre-matching and affirmation between brokers and custodians. In 2009, the Taiwan Depository & Clearing Corp. (TDCC) led market discussion between major custodians and the Taiwan Securities Association (TSA) regarding industry-wide implementation of the TDCC’s Virtual Matching Utility (VMU) system so as to achieve automation in trade pre-matching and affirmation for FINIs’ trade settlement between brokers and custodians. Many brokers and custodians have completed their internal system development as well as testing with TDCC. However, the securities regulator has not yet required compulsory market implementation. Most brokers and custodians are still using emails for trade pre-matching and affirmation, which is not efficient. To upgrade market standards and efficiency in the trade settlement process for FINIs, the Committee urges the regulator to issue a ruling setting the TDCC’s VMU system as the market standard for adoption by brokers and custodians.

CHEMICAL MANUFACTURERS

The Chemical Manufacturers Committee is grateful for the continued excellent 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 also highly appreciate EPA’s establishment last December of the new Toxic and Chemical Substances Bureau (TCSB) to streamline chemical management in Taiwan.

We continue to be concerned, however, regarding Confidential Business Information (CBI) issues regarding chemical substance disclosure and the ambiguity of the joint registration mechanism in the Phase II Existing Chemical Registration process. These issues could significantly impact Taiwan’s leading position as a chemical innovation and R&D hub that serves the needs of the electronics and chemical industries in Taiwan and in the global marketplace.

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

Taiwan started to implement Phase 4 of the Globally Harmonized System of Classification and Labeling of Chemicals (GHS) on January 1, 2017. Taiwan will also require chemical companies to make full disclosure of health hazards on a Safety Data Sheet (SDS). However, the level of disclosure planned for the Taiwan SDS will far exceed what is required in any other country, with potential serious negative consequences for innovation and R&D activity serving the chemical and electronic business needs in Taiwan.

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 substance contained in the product would misrepresent the danger posed by the product as a whole, causing misunderstandings...
and possibly even anxiety among business customers and consumers.

Although it is questionable whether the disclosure of low-hazard ingredients would bring any benefit to the public, such disclosure could easily damage the rights and interests of manufacturers. Over-disclosure would undermine companies’ ability to protect their CBI – 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 will be discouraged, to the detriment of the long-term competitiveness of Taiwan industry. Moreover, such lack of protection could also be seen by other countries as a trade barrier, possibly leading to trade disputes. Due to CBI concerns, manufacturers have recently been taking a more conservative approach and strategy regarding development of the chemical business and engagement in R&D in Taiwan. Further investigation is underway to gain a broader understanding of the potential negative and tangible impacts.

Though the EPA’s Toxic and Chemical Substances Bureau (TCSB) has established a simpler R&D reporting process under the registration rules, that process provides CBI protection only for new chemical substances under the R&D CBI application. No protection is provided for R&D work involving the confidential recipes of existing chemical substances. We recommend revising the CBI application process by referring to the practices in such other countries as the United States, Japan, Korea, and China, as well as issuing a positive list of chemical substances disclosed with generic names. These changes could be adopted in ways that bring no added risk to the public.

Suggestion 2: Provide a platform to facilitate Phase II joint registration for existing chemical registration.

If every company must individually register all the chemicals they manufacture or import, the amount of duplication in the application process for chemical substances will cause 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 this 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).

A 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 TCSB to establish a platform modeled on what the EU and South Korea have done. We suggest working with Taiwan industry and consulting EU-experienced subject-matter experts to design a joint registration program that includes a workable mechanism for matching potential participants.

Suggestion 3: Redraft the proposed amendment to the Toxic Chemical Substances Control Act for greater clarity.

In the draft amendment of the Toxic Chemical Substances Control Act (TCSCA) released on April 17, the definition and tiered-approach management of the applicable chemical substances are not clearly defined. Industry stakeholders also find Articles 30 and 38 on chemical substance registration and reporting to be too vague as to how chemical substances will be designated and how the periodic reporting of designated chemical substances should be carried out. We strongly suggest that clarifications on these points be included in the next version of the draft amendment.

Other regulations in the amended TCSCA draft deal with SDS and labeling generation for the applicable chemical substances, including the classification, pictograms, content, and format of labeling used for containers, packaging, handling sites, and facilities, as well as other matters determined by the competent authority. To reduce the burden and confusion of labeling management, we recommend harmonization with the GHS labeling system which is already in place.

In addition, problems may arise as the collection of Chemical Substance Operation Fees may overlap with Air Pollution Control Fees and the Soil and Groundwater Pollution Remediation Fees. To avoid a duplication in payment obligations, we recommend that the Chemical Substance Operation Fee be defined more clearly in the draft amendment.

Another area needing clarification in the draft amendment is the responsibility for chemical notification. Currently this responsibility applies mainly to domestic industries, but if foreign vendors are unable to provide the full chemical identity or other required information for reasons of CBI protection, or even if incorrect information is provided, it could be difficult to determine the liability. We suggest that the Only Representative (OR) concept in the EU’s REACH system be incorporated in the TCSCA amendment. Under REACH, a natural or legal person established outside the EU, who manufactures a substance, formulates a mixture or produces an article can appoint an OR to carry out the required registration of the imported substance.
COSMETICS

The newly established Cosmetics Committee recognizes and appreciates the efforts of the Taiwan Food and Drug Administration (TFDA) over the past year in promoting smooth communication between the government and industry. A productive win-win relationship is essential to ensure effective policy implementation and maintain a stable business environment for the cosmetics sector in Taiwan.

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 1972. We urge TFDA to continue driving regulatory transparency in order to harmonize the Cosmetics Act with similar legislation enacted by Taiwan's major international trading partners. It is vital to avoid adopting unique regulatory requirements that may create technical barriers to trade and pose impediments to entering into bilateral or multilateral trade agreements. In addition, we urge TFDA to encourage areas of industry self-regulation to meet the future needs of the cosmetics market.

We offer the following recommendations:

Suggestion 1: Adopt a regulatory definition of cosmetics that covers the latest technological advances and is harmonized with that of trading partners.

Given the substantial technological advances in the more than 40 years since the Cosmetics Act was first enacted, the regulatory definition of cosmetics in the law is clearly outdated and out of sync with consumer needs. The current statute defines cosmetics as products that freshen the hair or skin, stimulate the sense of smell, cover body odor, or improve facial appearance. Under this definition, products that moisturize and nourish the skin, minimize facial lines of ageing, and protect the skin from harmful UV rays are not included. Yet all of those products are popular with consumers in Taiwan, just as they are with people in major markets around the world.

Consequently, we are pleased to see TFDA take the initiative to modernize the Cosmetics Act. At the same time, we note that the proposed definition of cosmetics in the “Draft Recast Cosmetics Act” announced in late 2016 is still not comprehensive enough, nor is it adequately aligned with the policies of the United States and other leading trade partners.

We urge the government to adopt a broad definition that encompasses all the product types and functions of cosmetics (including lotions serving as sunscreen, creams and lotions with anti-oxidation ingredients for shielding harmful environmental factors, oral care products with perfuming and protection functions, etc.). The most practical approach would be to adopt the definition used by most leading countries and territories: “A substance or mixture intended to be placed in contact with the external parts of the human body (epidermis, hair system, nails, lips, and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, protecting them, keeping them in good condition or correcting body odors.” Emphasis should be placed on the key words protecting them, keeping them in good condition, which reflect the function of sunscreen products and skin-nourishing cosmetics such as lip balm, etc.

Suggestion 2: Recognize other countries’ Cosmetics GMP as equivalent to Taiwan’s under the Cosmetics Act.

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 regard the Taiwan standard as the only standard, which will inevitably lead to significant technical barriers to trade. Instead, the Taiwan government should recognize the Guidelines for Cosmetics GMP issued by the U.S. Personal Care Products Council (PCPC) and other health authorities as equivalent to the Taiwan Cosmetics GMP. It should also allow companies to self-certify compliance to equivalent overseas GMP standards as a means of fulfilling the Taiwan GMP requirement.

Suggestion 3: Drive regulatory transparency and avoid creating technical barriers to trade in the recast Cosmetics Act.

The Committee urges TFDA to start disclosing its decision-making rationales instead of merely maintaining unpublished internal guidelines. We offer the following specific recommendations:

3.1 Ensure that any restrictions on ingredient use are based on scientific evidence and adopted in a transparent manner. Certain ingredients are subject to limits on the scope of use and the dose, such as active ingredients for Special Use Cosmetics, cosmetic colorants, etc. We urge the Taiwan government to ensure that the adoption of any ingredient restrictions and/or sanitation standards for cosmetics is based on sound science and objective assessments. Scientific references regarding ingredient safety and use conditions can be found from governmental regulatory bodies in major markets, industrial consultation organizations, and such expert sources as the Cosmetics Ingredient Review (CIR) in the United States and the EU’s Scientific Committee on Consumer Safety (SCCS).

The ingredient restrictions and sanitation standards should also be aligned with those of major trading partners such as the United States, EU, and Japan. Furthermore, we urge Taiwan to build a regulatory
environment that fosters industry self-regulation to help spur industry advancement rather than impose burdensome constraints. Taiwan should refrain from setting unique regulatory requirements that may result in technical barriers to trade.

3.2 Ensure that the proposed new PIF system is workable and reasonable by addressing only critical regulatory needs. We appreciate TFDA’s assurances that it aims to establish “reasonable” and “workable” Product Information File (PIF) guidelines, with industry given adequate lead time for PIF preparation. As the new Cosmetics Act is in the legislative process, it is time to start considering the detailed guidelines and regulations related to the Act. We urge TFDA to work closely with industry associations and other stakeholders to identify and address the real needs to be met by the regulations, so as to establish a healthy PIF system that avoids creating any technical barriers to trade.

3.3 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 comply with a new system of post-market control through Notification and 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 proposed new PIF system is to provide necessary product information to consumers and relevant reference for government agencies during market surveillance. Cosmetic products are typically very small in size. In the interest of efficient and effective labeling, regulations for labeling cosmetic products should aim at ensuring that only meaningful information is required. Such product labeling norms have already been adopted by leading countries and territories.

3.4 Regard labeling of the responsible local supplier as sufficient for consumer protection and post-market surveillance. The purpose of labeling on cosmetic products is to provide necessary product information to consumers and relevant reference for government agencies during market surveillance. Cosmetic products are typically very small in size. In the interest of efficient and effective labeling, regulations for labeling cosmetic products should aim at ensuring that only meaningful information is required. Such product labeling norms have already been adopted by leading countries and territories.

One of the key pieces of information is the name of the local supplier who holds the product liability. The United States and other leading trade partners of Taiwan do not demand inclusion on the label of any other company in the supply chain. The local product supplier is the entity that the consumer can reach in case of any problem. In line with that logic, the Consumer Protection Act stipulates that the domestic importer or distributor rather than the manufacturer abroad is the liable party for imported products. The current Cosmetics Act requirement for the physical manufacturer or processor to be included in the labeling is meaningless in terms of trade practice and consumer protection. We urge the government to follow the practice of leading countries in requiring only that the name of the local responsible supplier appear on cosmetic product labels.

Suggestion 4: 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, had afterwards 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.

In a meeting last September discussing AmCham Taipei’s major concerns about the proposed new law, TFDA told Chamber representatives that only in the “most serious situation” – involving repeat offenders who have advertised their products with exaggerated or false claims that caused a severe threat to human safety – would TFDA consider taking the extreme step of demanding that the advertisers make public corrective advertisements/statements. TFDA further responded to industry’s concern by saying that the term “serious situation” would be clearly defined in the sub-law or executive orders. The statement is not wholly reassuring, however, as it will still be up to the health authorities to decide what is “serious.”

The Cosmetic Committee agrees with the previous position of the Retail Committee that the Legislative Yuan should withdraw this proposal. No other country in the world has a similar provision, and there is no need for a “Taiwan-unique” regulation.

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.
Suggestion 5: 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 are immediately rinsed off after use), the Committee urges TFDA to adopt the following measures to assure a smooth transition and minimize the impact on both industry and consumers:

a) 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 from the provision of the new law. 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 especially acute for multinational companies that source products worldwide and share product labeling/formulations across countries. If the product formulation must be changed, an even longer lead time will be needed to complete the product stability testing.

b) 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 in oral care products 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.

c) Distinguish toothpaste from whitening toothpaste and oral preparation in current cosmetic regulations. Although toothpastes are not yet classified as cosmetics, TFDA recently incorporated whitening toothpaste and oral preparations with a regulated level of hydrogen peroxide into cosmetic regulations. The Committee urges TFDA to distinguish toothpaste from cosmetic whitening toothpaste/oral preparations in future material to avoid confusion to customers/consumers of the toothpaste industry.

ENERGY

The Energy Committee was launched this year in order to better serve our members, who include industrial energy users, producers, and other related industry participants. The Committee aims to help Taiwan and our members preserve and enhance their competitiveness, as well as advance the interests of both energy consuming and producing industries.

The Committee looks forward to working with relevant government agencies to help devise a roadmap and timeline for a clear and feasible energy strategy that promotes the following objectives:

1) Ensuring that Taiwan’s power supply continues to be stable, reliable, and competitively priced.
2) Facilitating the development of energy projects.

Suggestion 1: Continue to ensure power-supply adequacy, reliability, and cost competitiveness.

Sufficient and reliable power supply is of critical importance to high-tech manufacturers. Power interruptions lasting just a fraction of a second can result in severe equipment damage and enormous production losses. Affordable and predictable energy costs are also extremely important to the profitability and long-term investment decisions of industrial users. Investment decisions concerning future industrial operations and production capacity must be made years in advance, and once made, they can have an impact for decades. Consequently, industrial users focus on price and reliability not only for the near term, but over the longer term.

Taiwan has begun a process of shifting its fuel and technology mix away from nuclear- and coal-based power generation sources. With the planned phase-out of nuclear power by 2025, concern about the future power supply has increased due to uncertainties about the cost and reliability of alternative energies. Given that 16% of the country’s power output currently comes from nuclear power, a shift in the fuel mix – if carried out too abruptly – could introduce significant tariff and supply-security risks. As an example, Ontario province in Canada recently made a rapid change in its fuel and technology mix, resulting in much greater than expected cost increases, which proved difficult for customers to absorb. In the end, a dramatic government intervention was needed to moderate larger-than-expected cost increases for both residential and industrial customers. Other countries have managed transitions over a longer or more flexible timeframe, or they have had the ability (unavailable for Taiwan) to tap neighboring sources of supply, which can help avoid unanticipated increases in cost or reductions in reliability.

From the perspective of the cost-competitiveness of Taiwan’s industries and their contribution to employment and economic growth, the transition from existing nuclear generation to future sources of power generation needs to be
managed carefully. The reason is that the incremental cost of generation from existing nuclear power stations is low, whereas alternative sources of capacity will incur new investment costs. The transition to a post-nuclear fuel mix is important, but it also has the potential to be economically disruptive if it is implemented too rigidly or quickly without a clear replacement plan that ensures continued cost-competitiveness, affordability, and reliability of the electricity supply.

Our specific recommendations:

1. **Set a clear transition roadmap.** Recognizing that Taiwan is entering a period of increasing uncertainty regarding the cost and reliability of its energy supply, we believe it will benefit from having a clear roadmap for managing the transition in an orderly way. While we support the development of renewable energy sources like wind and solar, experience in other markets has shown that transitioning too quickly toward renewable energy places significant upward pressure on energy costs, which is a particular concern for large power users.

2. **Seek and adopt international best practices in the integration of renewables.** Significant progress has been made in reducing the cost of solar and wind power generation, but the increased reliance on those technologies is beginning to pose new and difficult reliability challenges in some markets. To avoid blackouts of the type that recently occurred in South Australia, and to efficiently manage customer electricity loads when solar or wind production is not available, Taiwan and Taipower should implement best practices when integrating renewables into the electricity system.

3. **Increase communication with large power users.** Among the challenges that large power users face when integrating large amounts of intermittent renewable generation capacity is greater exposure to power interruptions and voltage dips. Taiwan’s isolated power system cannot rely on transmission lines from neighboring countries for economically priced power or to ensure reliability of supply. Consequently, particular care is required when extracting lessons from countries that can rely on interconnection to mitigate the impact of policy changes. Dialogue with large power users can help to ensure that all least-cost options are considered and that the risks and potential costs of power-quality degradation are fully recognized. Large power users would therefore highly value the opportunity to meet periodically with the Ministry of Economic Affairs (MOEA) and Taipower for discussions on power quality, cost-competitiveness, and environmental sustainability.

4. **Protect strategic large power users, e.g., high-tech manufacturing.** MOEA and Taipower should conduct a detailed survey to analyze the degree of vulnerability of large manufacturers to disruptions in the electricity supply. Given their vital contribution to Taiwan’s GDP and employment, large enterprises that are subject to the heaviest impact of power disruptions should be given the highest priority for receiving non-interruptible service. In addition, MOEA and Taipower should greatly increase efforts to promote energy conservation and provide support for demand response (DR) programs, which incentivize industrial and commercial users to shift some of their energy consumption to non-peak hours. Given a supportive regulatory and policy environment, DR programs can be developed quickly to assist in maintaining a reliable power supply across Taiwan. Additional programs to consider as part of a detailed plan include economic grants, energy audits, and consultation with large customers on their energy needs.

5. **Maintain a robust, relatively low-cost price position.** Large industrial customers in Taiwan compete in a global marketplace, and the price of electricity has a significant impact on their competitiveness. MOEA and Taipower should strive to ensure a competitive position with respect to other Asian countries to ensure a dynamic and robust industrial sector. To that end, more clarity is needed in the methodology of making power tariff adjustments so that large industrial power users can better prepare for future tariff changes in their budgeting and planning and avoid unwelcome surprises. When tariff increases are required, customers should share the burden appropriately. Finally, we suggest that incentive mechanisms be put in place for end users to build self-owned facilities with cogeneration and fuel storage units, provided they are non-polluting and highly efficient.

**Suggestion 2: Facilitate energy project development by clarifying and modifying government procedures, expediting infrastructure build-up, and fostering a domestic supply chain.**

Taiwan faces several major challenges in meeting its ever-increasing demand for electrical power. With 60% of the population opposing completion of the Longmen Nuclear Power Plant, Taiwan will be unable to generate the electricity it needs from nuclear power. In addition, periodic water shortages over the past year are impacting the efficient generation of hydraulic and coal power. And given the fierce resistance consumers have demonstrated toward price hikes and power rationing, Taiwan clearly needs to diversify its energy sources as well as enhance the efficiency with which it utilizes traditional sources of energy. Taiwan should pursue aggressive policies to promote renewable energy, as well as work toward improving the existing energy infrastructure.

This situation presents an opportunity for Taiwan as it looks to develop its green energy sector, not only as a means of reducing greenhouse gases, but also as a potential source of job creation and even opportunities for technology and equipment exports. A key step toward achieving this
ambition will be to ensure that a sufficient physical and legal infrastructure is in place so that the national energy targets can be met in a timely and efficient manner.

Furthermore, if Taiwan is to become a source of energy technology and equipment for the region, it will need to focus on developing the domestic supply chain and building the R&D capabilities it needs to spur the growth of a homegrown industry. Knowledge transfer from experienced overseas partners will need to be a crucial part of this process.

Our specific recommendations:

1. **Create a long-term predictable regulatory framework,** and set clear aspirations and specific targets for the build-out of renewable energy supplies. Market scale will be essential to attracting investments in the supply chain by international and local players needed to create a local base for further growth.

2. **Incorporate greater flexibility into the government procurement process in line with such methodologies as “heterogeneous purchase” and “experimental development.”** These methods should be applied to introduce emerging innovative materials and technologies. Currently, there is difficulty in utilizing “new technology and new materials” in public construction bids. First, project owners avoid setting specifications for new materials so as not to be accused of writing the specs to favor any particular suppliers. Second, existing material test guidelines fail to take new technologies and methodologies into account. Without introducing flexibility into Taiwan’s procurement processes, Taiwan will be unable to take advantage of new opportunities to improve the utilization of existing energy production and transmission facilities.

3. **Provide sufficient and reliable gas supply to gradually replace coal-fired power generation.** MOEA and the CPC Corp. should ensure timely construction of the latest LNG receiving terminal. CPC must also ensure that its LNG purchases are prudently priced over the next several years, given the rapidly changing environment in the international gas market. CPC should provide more transparency concerning how it balances spot and term LNG purchases. Asian LNG prices have fallen considerably because of the significant amounts of LNG that have become available from Australia, the United States, and other new sources of supply. In the long-term, the expected increase in renewable power generation is likely to exert downward pressure on LNG pricing. We encourage CPC to develop a plan that leverages such near- and long-term opportunities. We also urge MOEA to consider allowing third-party access to LNG receiving, storage, and transport facilities, thus bringing a greater degree of competition into gas retailing.

4. **Ensure sufficient grid allocation for new energy deployment.** It is also important to avoid costly project bottlenecks stemming from insufficient power grid build-out, as well as to ensure full remuneration for losses of revenue arising from the lack of grid services.

5. **Develop HSE standards for offshore wind development to reduce the social cost of energy build-out.** Offshore wind presents unique Health, Safety and Environment (HSE) related challenges due to the challenging working environment. We suggest that the Taiwan government adopt international standards and best practices, establish a training center certified by the Global Wind Organisation (GWO), and amend the labor law to include provisions applicable to workers employed in this sector.

6. **Ensure sufficient harbor infrastructure to meet offshore wind expansion requirements.** Key harbor infrastructure needs to be developed in order to avoid bottlenecks and ensure deployment timelines. Energy projects should not be delayed due to a lack of adequate harbor facilities.

### HUMAN RESOURCES

The Committee notes 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 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. However, the recently amended Labor Standards Law (LSL) appears to make Taiwan a less acceptable investment environment. The Committee believes that a well-balanced legislative framework that encompasses flexibility for business, reasonable protections for employees, and appropriate visa requirements for foreigners will serve to raise Taiwan’s profile in the international competition to attract talent.

The Committee has been continuously proposing many issues to the Ministry of Labor (the labor authority) arising from the amended LSL. We greatly appreciate that the labor authority has been addressing some of the issues in the draft LSL Enforcement Rules.

Below, the Committee presents five issues that represent the key areas of concern of its members: the need for increased flexibility in work hours, further development of overtime regulations, reduced restrictions on annual leave, the reworking of policies relating to new types of labor, and
conducting consultation with stakeholders before laws are amended and providing a buffer period afterwards. These issues reflect the shared desire of the Committee's members to see greater flexibility and predictability in employment laws in Taiwan.

Suggestion 1: Revise the regulations on overtime work.

According to the 2014 Report on the Manpower Utilization Survey issued by the Directorate-General of Budget, Accounting and Statistics (DGBAS), 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 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 traditional labor-intensive methods are seriously outdated. In addition, in light of the rapid aging of the population and decreased birth rate in Taiwan, enterprises must enhance labor productivity by helping employees reach a proper work-life balance. 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 Extend the “four-week flexible working hours” option to multiple industries. Article 30-1 of the LSL provides for an option of a total number of flexible working hours over a four-week period in “industries designated by the central competent authority.” In practice, however, the scope of applying this principle is too narrow, as all industries require a degree of flexibility in setting working hours. Moreover, due to the obligation to protect labor rights, the “flexible working hours” must be approved by the labor union or through a labor-management meeting, as the case may be, so that working hours are negotiated between labor and management, and labor rights are not impaired.

1.2 Enlarge the scope of Article 84-1 of the LSL recognition. Article 84-1 exempts certain categories of workers, especially “supervisory, administrative, and professional workers,” from provisions of the LSL, allowing them to enter into agreements with their employers regarding working hours, regular days off, national holidays, and female workers’ night work. The provision should be broadened further, since entitlement to LSL protections is not necessary for individuals at or above a certain salary level. In fact, current LSL provisions excessively protect such individuals to a degree that impairs their rights and causes them inconvenience. Accordingly, a higher degree of flexibility in working hours should be permitted for persons with such salary levels. The Committee recommends that an amendment to the LSL or a letter issued by the Ministry of Labor stipulate that when an individual’s salary income is greater than three times the industry average as declared by the DGBAS, the individual and his/her employer may agree on work hours, days off, official holidays, and night-time work for women without being subject to the restrictions of Articles 30, 32, 36, 37, and 49 of the LSL, provided that the requirements of Article 84-1 of the LSL are met – in other words, the agreement is submitted to the relevant local authorities for approval and the conditions are not detrimental to the health and well-being of the workers.

Suggestion 2: Further develop regulations on overtime time.

2.1 Adopt a reasonable definition of “unexpected events” for employers to cope with the need for overtime work. Under the current LSL, when a natural disaster, accident, or unexpected event occurs, making it necessary for employees to work outside of normal work hours, the employer is required to notify the labor union – or if there is no labor union, then the local competent authority – within 24 hours of the commencement of such work. Additionally, if employers interrupt workers’ leaves due to a natural disaster, accident, or unexpected event, the employer must also report the details of this interruption to the local competent authority. Because the definition of “unexpected event” is unclear, however, companies are unable to effectively determine whether the competent authority would view a situation as an “unexpected event.” A situation that the company considers an “unexpected event” may be rejected by the competent authority, thereby substantially increasing the company’s compliance costs.

Each industry has its own specific criteria when it comes to defining an “unexpected event,” and it is difficult to unify these different standards into one uniform definition. Instead, the definition of “unexpected event” should be determined by management based on the business needs of the company, and then confirmed by the labor union or labor-management meeting (as the case may be), so that both employers and workers are able to reasonably anticipate what constitutes an “unexpected event.” Therefore, we suggest that the labor authority issue an interpretative ruling to allow an employer more discretion to define an “unexpected event” in a way that is suitable to its particular operation.

2.2 Calculate overtime hours according to the actual working time. To protect labor rights, the amendments to the LSL passed on December 21, 2016 significantly increased worker overtime entitlements, giving workers a choice
between higher overtime pay and actual rest. If an employer urgently needs manpower, that need is reflected in the employer’s willingness to pay its workers the higher overtime wage. However, the amended LSL imposes a high financial burden on employers to pay overtime wages, based not on the actual number of overtime hours but on a formula set out in Paragraph 3, Article 24 of the LSL. That provision states that “in calculating the work hours and wage on Rest Days, for any work completed in under 4 hours the work time will be 4 hours, for any work completed in over 4 hours and under 8 hours the work time will be 8 hours, and for any work completed in over 8 hours and under 12 hours the work time will be 12 hours.” This formula has caused the loophole where an employee may be asked to work overtime for 4 hours on a Rest Day but ask for personal leave for 3 hours and then still get overtime wages of 4 hours.

We therefore recommend that the LSL be further amended to make overtime hours reflect the actual working time.

2.3 Clearly define overtime approval and burden of proof in the work rules or employment agreement.

Employers need to anticipate personnel costs. The Committee recommends that the LSL or the enforcement rules of the LSL establish that a statement to the effect that overtime must be pre-approved by the employer must appear in the work rules or employment agreement so that employers are able to anticipate personnel costs. If an employee is able to take the initiative to work overtime, the employer is unable to determine whether the overtime is necessary. If both employers and employees agree on the overtime activity to be performed, the employee should bear the burden of proof that the overtime work has in fact been carried out.

We recommend that the labor authority issue an interpretive ruling to stipulate this reasonable management right of the employer.

Suggestion 3: Set more reasonable regulations governing annual leave.

3.1 Require the pre-arrangement of annual leave.

Employers need to pre-arrange employees’ annual leave in order to set work schedules in a way that allows the business operations to proceed smoothly. Requiring that annual leaves be arranged in advance should in no way infringe on labor rights.

In certain industries, in fact, regulatory provisions require that employees pre-arrange their annual leave. In banking for example, due to the highly regulated nature of the sector, banks must institute a standard leave of absence procedure, such as requiring employees to pre-arrange a certain number of days of continuous leave in order to facilitate proper internal controls needed to detect and prevent fraud.

Therefore, the Committee recommends that the labor authority issues an interpretative ruling to stipulate that employers may require workers to pre-arrange their annual leaves, but if workers need to change the pre-arranged dates, employers shall not refuse such requests without good cause.

3.2 Ease requirements on the cash-out of annual leave.

One purpose of the LSL amendments of December 21, 2016 was to ensure that workers are able to take leaves of absence. To interpret that the amendments require workers to use up their annual leave within the same year would be contrary to the intent of the legislature and would deprive workers of their right to choose when to take leave.

Unused annual leave is debt owed to workers by the employer. In accordance with the principles of the Civil Code, the option to choose among different methods to offset the debt should fall to the debtor (the employer). The employer should be able to use new debt from unused annual leave to offset the old debt of carried-forward leave. It should not be necessary to settle this creditor-debtor matter within a single year.

The Committee recommends that the labor authority issue an interpretative ruling to provide that employers and workers have the right to agree in a creditor-debtor matter according to the principles of the Civil Code with respect to the cash-out of annual leave, as long as the agreement is fair and reasonable.

3.3 Clarify provisions regarding untaken annual leave.

We agree that employer should not let employees continuously accumulate annual leave without limit. We also agree that, if a worker has not taken his/her remaining annual leave by the end of the year and if this failure to take annual leave is attributable to circumstances arising from the business needs of the employer, then the employer must pay wages for the number of days of annual leave not taken. However, if the reason for not taking the annual leave is attributable to the employee, we recommend amending the LSL to allow the employee’s untaken annual leave be carried forward to the following year to adhere to the work-life balance principle of the LSL.

Suggestion 4: Revamp policies relating to non-conventional types of labor.

4.1 Regular days off and rest days for dispatched staff should be determined by the receiving party.

The labor dispatch business exists to meet companies’ temporary needs for additional headcount. Therefore the hours for the dispatched staff to work must be based on the needs of the receiving party.

Therefore, we recommend that the labor authority issue an interpretative ruling to provide that Regular Days Off
and Rest Days for dispatched staff should be determined by the receiving party.

4.2 Expand the “Guiding Principles of Working Hours of Workers Away from the Business Premises” to cover all industries.

These “Guiding Principles,” issued by the labor authority in May 6, 2015, were made applicable to only a small set of specific industries, whereas workers in many other industries also work away from the business premises and face issues similar to those in the industries covered. We recommend that the labor authority issue a ruling to extend the scope of the “Guiding Principles” to all industries.

Suggestion 5: Conduct broader consultation before laws are amended and provide a buffer period afterwards.

5.1 Present amendments at public hearings before they are passed into law.

Because revisions to the LSL and the enforcements rules of the LSL affect the entire country, it is important that public hearings be conducted in accordance with the Administrative Procedure Act before amendments are enacted into law. We recommend that the labor authority continue to hold a certain number of public hearings on further proposed revisions to the LSL at least 60 days prior to completion of the draft, so that representatives of both employers and labor could express their opinions, minimizing the disruptive effects of these amendments.

5.2 Extend the post-amendment grace period.

The amendments to the LSL that were passed on December 21, 2016 covered a wide range of issues. Affected parties who must now adjust their internal procedures and personnel affair systems should be provided with a reasonable grace period to implement these changes. Although there were several media reports that the Minister of Labor announced a grace period for enforcement, we were surprised to find that the local labor bureaus of Taipei City and New Taipei City have already imposed 198 sanction cases based on the alleged violation of the amendment of LSL.

Therefore, the Committee recommends that the grace period protecting parties against violations of the amendments to the LSL passed on December 21, 2016 be extended to one year from the date of enactment of the amendments.

INFRASTRUCTURE & ENGINEERING

The Committee would like to thank the Taiwan government for giving its members the chance to share their ideas on ways to make Taiwan’s government procurement market more attractive to international companies. The government is launching plans for an ambitious set of wide-ranging infrastructure projects with overlapping and demanding delivery schedules that may exceed the capacity of the local engineering and construction contracting community. Successful delivery of the planned infrastructure program, especially the power generation projects, is critically important for the continued prosperity of the Taiwan economy. Accordingly, the Committee believes the introduction of suitable and experienced international contractors to augment local capacity is essential to ensure successful completion of these projects.

Given the government’s intention – now written into law with the recent amendments to the Electricity Act – to decommission Taiwan’s three nuclear plants between the end of next year and 2025, it will be vital for the government and Taiwan Power Co. to ensure that adequate power-generating capacity is in place, providing a sufficient and reliable supply of competitively priced electricity to support Taiwan’s economic growth. Potential investors, whether foreign or domestic, must feel confident that the government has a robust and well-thought-out plan to deliver the replacement power generation needed to make up for the lost capacity supplied by the currently operating nuclear plants.

The Committee recommends that the government take a more assertive role in attracting international companies to execute a portion of the planned projects. Besides reducing the delivery risk caused by the tight schedule requirements, there are other benefits to having international companies participate in public projects. By introducing new and innovative ideas to the market, they help advance the capability of the local contracting community. Foreign companies also bring alternative delivery methods which often translate into shorter and more reliable and cost-efficient completion schedules. Certainty of delivery lessens the disruption period large infrastructure projects often have on the public, and helps improve the quality of life by delivering the specific project by the date planned and for the budgeted cost.

This year we have provided four suggestions aimed at reducing commercial barriers and modifying the tendering and selection process. The use of “low price” as the selection criteria, for example, discourages international companies from participating since it does not value the qualitative elements which international companies often provide, such as innovative execution approaches, leading-edge project management tools and processes, and enhanced health and safety processes.

Suggestion 1: Allow International Arbitration Rules to be applied.

The availability of an alternative dispute resolution (ADR) process that is well known internationally and
considered neutral to the contractual parties is often decisive for foreign companies when determining whether to participate in an international tender offering. One such ADR process that is acceptable to most international companies is arbitration under the Rules of Arbitration of the International Chamber of Commerce (ICC). In a meeting with the Public Construction Commission (PCC) last year, the Committee brought up the concept of allowing foreign companies to choose ICC Arbitration Rules for domestic arbitration proceedings, and obtained a positive response from PCC Minister Wu Hong-Mo. The Committee believes that modifying the Government Procurement Act (GPA) along these lines would not only be feasible, but would prove beneficial to both the Taiwan government and capable international companies.

In most tender documents in Taiwan, the government chooses to designate local courts following local arbitration rules – which are not well-known to foreign companies – as the courts of jurisdiction for arbitration. The Committee suggests that the government either: (i) permit use of third-country arbitration to provide a neutral process and location to settle disputes, or (ii) maintain Taipei as the seat of arbitration with local law as the prevailing authority, but allow ICC Rules of Arbitration to be followed.

Encouraging government contracting agencies to adopt this flexibility would minimize the concerns of international companies as to whether the settlement of disputes will be conducted in a neutral and independent manner. The Model Contract Terms & Conditions already have sufficient flexibility to allow the government contracting entity to choose the type of arbitration to be adopted for the tender formation stage. However, the natural tendency for contracting entities is to stipulate a local jurisdiction and local rules by default, rather than using a more impartial or neutral approach.

To provide support for government contracting agencies to consider an alternative approach with respect of arbitration, we propose that PCC modify relevant clauses in the GPA to include the spirit of the following text: “If requested during the tendering process, the application of third-country arbitration or ICC arbitration practice and rules in local courts or institutions may be considered by government clients.”

Details of this modification could be further discussed, but adhering to this spirit of flexibility would enhance the interest of international companies in participating in Taiwan’s major infrastructure projects.

**Suggestion 2: Amend the Model Contract Terms & Conditions to allow contractors to submit change notifications.**

Another key point for international contractors in deciding whether to participate in an international tender is the fairness of contract terms regarding bona fide changes to the project scope or schedule. In fact, fair and internationalized terms and conditions throughout the contract would create a healthy commercial structure for foreign companies to participate in the tendering of public projects in Taiwan.

Although the various model contract terms and conditions issued by the PCC provide a practical guideline for government contracting agencies to make contract terms and commercial arrangements, they are in need of improvement. In particular, the current Model Contract of Technical Service Agreement and the Model Contract of Construction Agreement include a provision only for the government contracting agency to notify contractors of a scope change; no formal provision exists for the contractor to notify the government contracting agency of a change that has occurred. Lack of a formal provision giving the contractor the express right to submit a change notice is cause for concern because it may affect the contractor’s ability to obtain an equitable adjustment to time and/or cost for changes to the contract scope and schedule. The unilateral nature of the Model Contract change provisions – implicitly denying the contractor a right to claim a scope change unless it is issued by the government contracting agency – is viewed as unfair and risky by international contractors.

In the Model Contract of Technical Service Agreement, the current wording of “Article 15 – Change and Assignment of Agreement,” in which Party A is the government contracting agency and Party B is the contractor, reads as follows:

“Party A may, where necessary, notify Party B to amend the contract within the scope of services specified in the contract. Party B shall submit the documents regarding the changes made to scope of performance, price, performance term, payment schedule and other contents within ten days from receiving the change notice, unless otherwise specified in separate agreements between both parties. A contract price change shall be resolved through negotiations between both parties.”

The Committee strongly urges the PCC to eliminate that one-sidedness by adding a provision giving the contractor the express right to submit a change notification when it believes a change in scope or schedule has occurred.

**Suggestion 3: Use “Most Advantageous Tender” rather than “Lowest Price” as a selection process for public projects.**

Foreign contracting companies often will not participate in an international tender if the selection process is merely “lowest price” wins. The value proposition offered by first-tier foreign contractors competing in the international market consists of both qualitative elements along with a competitive price, but not necessarily the lowest tendered price. When a project is challenging due to schedule requirements, complexity, or where the contractor’s performance is key to
realizing the desired outcome, then a weighted technical/price approach or “Most Advantageous Tender” is the appropriate tender-evaluation process to determine the best value for money. Under a lowest price selection process, certainty of delivery, project management skills, quality, safety and other crucial non-cost elements that differentiate tenderers are not assessed and weighted, which discourages international participation. The “Most Advantageous Tender” selection approach is recognized internationally as the more effective way to select quality contractors that are the most suitable for the specific project requirements.

We understand that as a long-term objective, PCC is encouraging use of the Most Advantageous Tender approach, but most government agencies still adhere to the lowest bidder approach for fear of being criticized, since low price is a more quantifiable criterion. However, awards that go to the low bidder often run into non-performance issues. In the end, over-emphasis on low price may cost the government agency more in time and money, as well as cause subsequent reputational harm from failure to meet cost, schedule, or other crucial non-cost elements that differentiate tenderers are not assessed and weighted, which discourages international participation.

Many countries therefore employ a two-envelope engineering process, whereby the price submission is separated from the technical portion to ensure that price considerations do not affect the technical scoring and commercial evaluation. The technical and price proposals are submitted in separate sealed envelopes. A weighted technical score is developed for each bidder based on pre-established criteria, with key minimum hurdles that must be met. Concurrently, the commercial proposal is evaluated to verify compliance with the tender requirements.

Tenderers must first pass the technical and commercial stage before the price envelope is opened. The price and technical scores are then combined to arrive at a weighted price/technical score used to determine the recommended tender.

To ensure a fair and transparent process, it is critical that the evaluation process be well-thought-out and formalized in advance, and that the criteria and weighting are communicated as part of the tender documents.

The Committee strongly recommends adoption of the Most Advantageous Tender process, especially for public projects that are challenging, complex or involve specialty skills or high-end technology. This approach allows the government agency to tailor the evaluation process to match the requirements of the project and emphasize the key contractor capabilities or tender elements that are most important to the success of the project rather than simply choosing the lowest price.

As a first step, the government could select a few projects as trial projects, and monitor the performance of the contractors to gauge the effectiveness of the process.

**Suggestion 4: Encourage the use of alternative methodology in public infrastructure projects.**

International contractors often offer alternative proposals to enable the project owner to achieve time or cost savings, while still complying with the performance requirements. Internationally, submission of an alternative in addition to a base tender is common practice, but there is no provision for it under Taiwan’s current government tendering process. Also in last year’s meeting with PCC, the Committee brought up the concept of allowing alternative methodology to be used in public infrastructure tenders in order to achieve savings in project budgets and schedules. Again the response from Minister Wu was positive. The committee therefore proposes the following minor modifications in the GPA and tendering practices that would benefit both the Taiwan government and interested capable international companies:

- Incorporate clauses in the GPA permitting acceptance of alternative solutions in addition to a compliant base proposal during the tendering stage for selected major projects.
- Establish a trial period in which the National Development Council would be designated as the decision-making body to select projects to follow this concept and to analyze tenders conducted by procuring agencies to evaluate the benefits.
- Ensure that the tender evaluation process of alternative solutions is well-thought-out and formalized in advance and communicated as part of the tender documents.
- If the basic concept is acceptable, review GPA regulations to see where minor modifications may be necessary to create a friendlier environment for comparing technologies and increase the opportunity for the firm with better technology to win the bid.

The CPC #3 LNG Receiving Terminal Project now being tendered with an estimated budget of over NT$80 billion would be a suitable candidate for this approach. Due to the rushed nature of this project, it would help if qualified international bidders are allowed to propose innovative but proven technology for possible shortening of the project schedule, which will have critical bearing on the sufficiency of the national electricity supply. Appropriate guidelines would be incorporated in the tender evaluation criteria to address alternatives such schedule shortening.

Construction of this kind of project requires a top-tier, very experienced international company, and simple changes in methodology can save large amounts of time and money. By using the new LNG terminal as a trial project, the government could send a strong signal to international engineering firms, local clients, and taxpayers that it is open to new ways of conducting infrastructure projects.

The Committee believes that adopting the concept of allowing for alternative methodologies would enhance the capabilities of local engineers, upgrading their capability to
competes in the international arena. If needed, Committee members would be pleased to further explain the concept and its benefits to the relevant authorities.

**INSURANCE**

This year the Insurance Committee would like to divide our position paper into two parts representing the two segments of the insurance industry: life insurance and non-life. Both segments are currently undergoing substantial change reflecting the continued worldwide development of e-commerce and FinTech in relation to insurance markets.

Also relevant to both life and non-life insurance, the main theme for the Insurance Committee this year is the need for increased insurance protection for individuals and families in Taiwan. In line with that objective, we present recommendations on how to incentivize companies to enhance the level of protection brought to the market. Other recommendations aim at promoting financial health and the ease of doing business in Taiwan’s insurance industry.

We also hope to see further cooperation between industry and government on efforts to educate consumers regarding the full potential of insurance to provide protection against loss of income, loss of property or ownership, unexpected life and health events, and the risk of outliving resources for retirement.

The Committee would like to thank the government authorities for their contribution to improving the business environment for the insurance industry in Taiwan. In the months ahead, we look forward to communicating with the relevant ministries and bureaus regarding the suggestions put forth in this year’s White Paper.

**Life Insurance**

In light of Taiwan’s rapidly aging population, other subjects worthy of attention are how to provide sufficient health protection for senior citizens and how to enable them to continue to enjoy a sound economic status. Our recommendations on these topics are given below.

From an industry perspective, the Committee urges the government to encourage consumers to buy protection products by providing greater tax incentives, and to give insurers more flexibility in the pricing and filing of insurance products.

**Suggestion 1: Adopt measures to incentivize insurers to offer protection insurance.**

The Committee supports the government’s focus on closing the protection gap – the difference between what individuals need to be insured for in the event of a serious issue such as critical illness, accident, or passing and what they are actually insured for – and proposes that protection insurance be redefined in order to highlight protection products’ benefits for consumers. As noted above, the degree of protection is currently measured by the face amount on the policy, but a more accurate indicator would be the amount by which the accumulated premiums exceed the cash surrender value, since this focuses on the protection component of the product. The Committee would be pleased to discuss the exact proposed formula with the relevant officials. For the remainder of this section, the discussion of protection products assumes that the above-mentioned definition or a similar one is adopted.

To promote protection products to consumers, the Committee proposes that the proposed personal tax exemption for Long Term Care and annuity products be extended to include protection products.

Targeting a higher level of protection introduces a level of earnings diversity that is healthier financially for the insurance industry. In other words, by diversifying profits with a larger mortality/morbidity spread, the industry can better immunize earnings and capital levels from normal market volatility and severe market events. We recommend incentivizing insurers to offer more protection by awarding an additional product quota based on achieving a pre-determined level of protection business.

Further, considering the social benefits that protection insurance products offer, we also advocate the exemption or reduction of business tax for insurers that develop and promote protection products. The Committee recognizes that amending the law and changing the whole mechanism would take time, but in the meantime other actions can be considered as short-term solutions, such as reclassifying the tax items in the “core business” and “exclusive core business” categories and applying a 2% tax rate to them. Another interim method would be to allow life insurers to deduct retained claim payments on protection products as part of the tax formula, as is already the case for non-life insurers.

In addition, we suggest allowing flexibility on the re-pricing mechanism for variable annuity products with guaranteed payments. The Insurance Bureau (IB) of the Financial Supervisory Commission (FSC) has already adopted a deregulation measure to allow insurance companies to follow a use-and-file procedure if certain criteria can be met. We believe this is a valid requirement for new product filing. However, for products that have been previously approved, if the purpose of re-pricing is to manage the product risk due to changes in economic conditions, the current requirement may restrict the insurer’s ability to respond to capital market volatility.

**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 technologies.

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 world, including Hong Kong, the United Kingdom, and the United States, Taiwan should significantly accelerate the adoption of international standards. Allowing easy, transparent, and convenient access to insurance products online will enable a greater portion of society to enjoy the protection coverage that is needed.

The Committee would like to express our appreciation to the FSC and IB for the amendments to the “Regulation on Insurance E-Commerce” announced in March 2016. To maintain positive momentum in facilitating insurance e-commerce, we recommend simplifying the application process, allowing more products and a larger amount of insurance to be transacted on e-commerce platforms, and permitting additional electronic payment methods. Further, while the amended regulation allows for the applicant and the insured to be different individuals, a physical identification certificate must still be used in order to complete the transaction. Obtaining this “Citizen Certification Card” requires very specialized equipment and precludes most individuals from utilizing this approach. We encourage the relevant authorities to remove this requirement, as it clearly discourages bringing the insurance business into the digital age. In addition, the application of insurance technology to the open data platform of health statistics, or the collection and analysis of data collected from insurance-tech devices, cannot be achieved without the application of big data. However, the legality of collecting, analyzing, or using big data may be challenged under the Personal Data Protection Law. We recommend that the regulator establish special provisions for the protection of personal data in the insurance industry in order to meet the needs of insurance technology development.

2.2 Establish a more effective mechanism to replace the contract pre-review period. We also recommend that the regulator replace the pre-review period with other more consumer-friendly alternatives, such as amending the insurer’s information disclosure obligation and legalizing the right of revocation during the cooling-off period to replace the contract pre-review period in the Consumer Protection Act. The contract pre-review period does not serve the purpose of protecting the consumer’s right to knowledge of the important information in insurance policies. Instead, this requirement hinders consumers from getting simple and immediate insurance protection through e-commerce and telemarketing channels. As the consumer enjoys no insurance policy coverage during the pre-review period, and insurance contracts already include a generous 10-day cancellation period after receipt of the policy, the pre-review period mechanism should be replaced with other more consumer-friendly alternatives.

2.3 Remove restrictions limiting the development of FinTech. The Committee applauds the recent government efforts to promote FinTech in Taiwan. However, an FSC ruling on October 22, 2015 seems contrary to this direction, as it limits the number of insurance broker or agency companies that will be allowed to conduct digital online insurance to 10, and requires these companies to have a minimum annual revenue of NT$500 million to qualify. This requirement would clearly exclude young and innovative companies, enabling only traditional and established businesses (which are accustomed to engaging in face-to-face sales by agents) to apply. This approach is not aligned with global norms, and in fact we were unable to find any other jurisdiction with such requirements. In order to properly harness the power of FinTech, these limitations should be removed in the interest of increasing the number of participants and accelerating the growth of digital insurance in this country. In addition, insurance broker and agency companies still cannot connect to insurance companies’ e-commerce systems because of electronic signature issues, which require further resolution by the regulator.

2.4 Establish a legal basis for electronic recordings in line with insurance technology development. 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.

Two different regulatory approaches could be applied in this situation: the “active disclosure rule” and the “written inquiry rule.” The main difference between them is the scope of the required disclosure. The written inquiry rule limits the applicant’s disclosure obligation to the material inquiries specified by the insurer, and exempts the applicant from liability for misjudging the materiality. Whether the inquiries are in fact in writing is not a major concern under this rule. Therefore, conducting health inquiries in electronic format or by telephone does not violate the current “written inquiry rule” prescribed in Article 64 of the Insurance Law. We request that Article 9(4) 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.

**Suggestion 3: Permit liability hedging for Fixed Index Annuities.**

In an effort to encourage innovations in the development of retirement annuities, the IB in 2016 permitted liability hedging for variable annuities with guarantees. Those “Regulations Governing Derivatives Transactions Conducted by Insurance Companies” did not specifically mention Fixed Index Annuities, an innovative form of retirement annuity common in the U.S. market. Although Taiwan life insurers and consumers have shown great interest in this product, it is currently restricted by regulations that severely limit the hedging instruments for such risks. Since Fixed Indexed Annuities are similar to variable annuities with guarantees, but even safer from the point of view of both consumers and insurers, we propose that Fixed Indexed Annuities be included in the scope of liability hedging. For Fixed Indexed Annuities, the annual growth is benchmarked to a stock market index rather than an interest rate.

**Non-Life Insurance**

The regulatory framework for insurance products should be reviewed to further enhance consumer protection while according greater flexibility for insurers to respond to changing market conditions, both in managing risks and enhancing their competitiveness. As the government has made good progress in relaxing the wet signature requirement over the last two years, we believe that further relaxation can be achieved in the commercial business area.

Developments in the financial market and increasing competition have encouraged greater innovation, with a wider diversity of products being made available to consumers. However, the difficult current economic conditions and concerns regarding operating costs have resulted in under-insurance in a number of cases, including the Formosa Water Park dust explosion and the tourist bus fire. We see the need for the government to increase the insurance limits and expand the scope of compulsory insurance.

**Suggestion 4: Waive the wet signature requirement on non-life insurance application forms to meet commercial market needs.**

Personal Insurance is normally sold to individuals, whereas Commercial Insurance is sold to legal entities at the request of corporate clients. The existing regulation requiring wet signatures on all insurance application forms does not take this distinction into account. We suggest that the wet signature requirement on Commercial Insurance application forms, in particular for the fronting business, should be waived completely for the following reasons:

a. Unlike Personal Insurance, there is no risk of moral hazard in Commercial Insurance.

b. Regarding the fronting business, given the large number of foreign-invested and multinational companies in Taiwan, most of the insurance planning and insurance coverage has been determined at the home-office level. The insurance brokers/reinsurance companies representing all these multinational companies would have clearly articulated the intent and scope of insurance coverage through emails or other forms of documentation. Emails or other forms of documentation are clear confirmation of insurance needs.

Removing the wet signature requirement for all commercial insurance – or if that is not possible, at least for multinational companies requirement – would help expedite the policy issuance for commercial clients; reduce unnecessary administrative work, time, and cost; and bring Taiwan’s insurance practices more in line with international markets.

**Suggestion 5: Increase the existing scope of compulsory insurance to provide the public with more insurance protection.**

The Committee applauds the recent government proposals to increase the public liability insurance aggregate limit to NT$64 million (any one death/bodily injury NT$3 million, property damage NT$2 million and any one accident NT$30 million) following such disasters as the Formosa Fun Coast dust explosion, Kaohsiung pipeline explosion, etc. Since then, it appears that only Taoyuan City has increased the limit to NT$60 million while little progress has been made in the other cities and counties. We recommend that the relevant authorities:

a. Strictly enforce the public liability insurance limit in all cities and counties to ensure that the public in general is well protected towards accidental bodily injury/death.

b. Review the existing compulsory automobile third-party liability insurance limit of NT$2 million maximum for each death and NT$200,000 maximum for each bodily injury, as such limits are grossly understated compared to other countries in the region.

c. Expand the scope of compulsory insurance to include, for example:

- Pollution Liability
- Workmen’s Compensation in addition to the existing labor insurance
- Aviation Liability
- Professional Indemnity for individual lawyers, legal firms, architects, accountants, insurance and reinsurance brokers
- Pleasure craft
- Shipowner’s Liability and marine oil pollution
- Airport Liability
- Clinical Trials
INTELLECTUAL PROPERTY & LICENSING

Intellectual property rights (IPR) concerns have been at or near the top of the advocacy agenda of the American Chamber of Commerce in Taipei over the years. IPR protection continues to play a crucial role in maintaining Taiwan’s competitive position in the global economy.

There have been some encouraging developments in Taiwan IPR protection in the last year. TIPO’s e-filing service for patent and trademark applications and continued expansion of the Patent Prosecution Highway (PPH) with a number of countries are resulting in fewer complications and delays in the patent and trademark application process. The Chamber was encouraged to see a number of positive copyright law reforms proposed when Taiwan was preparing for Trans-Pacific Partnership (TPP) candidacy. However, these reforms have not been incorporated in the current Copyright Law draft amendments. In addition, the Committee commends the continued efforts to fast-track IPR cases, which have resulted in Taiwan having one of the more efficient IPR enforcement systems – except for dealing with cases involving online piracy – in the Asian region.

The Committee saw little or no improvement, however, on all issues brought up last year in the White Paper, which continue to be a matter of great concern. There has been no movement on reform of the Copyright Collective Management Organization (CCMO) system. Online copyright infringement continues to grow, and through inaction Taiwan is increasingly falling behind the rest of the world through ineffective enforcement of online piracy. Protection and enforcement by the Taiwan authorities is either absent or confusing.

Revision to the Copyright Act, which has been going on for years, continues to be delayed. The fourth draft, now under review, does little to address pressing and evolving copyright infringement issues that are only worsening as the years go by. Another concern is that over the past year judges have demonstrated an increasing reluctance to grant search warrants in IPR-related cases – which are necessary for the preservation of evidence – while further hampering IPR enforcement through reduced levels of sentencing and fines given to those convicted. The message sent is that enforcement is little more than a cost of doing business, rather than real punishment for IPR infringement.

In the past decade, particularly in the last five years, rapid technological progress has drastically changed the way we live. People now rely heavily on the internet, and social media has become one of the most common ways to interact and communicate. These changes have reshaped the landscape of business around the world, as transactions are no longer bound by national boundaries. E-commerce platforms have proliferated globally, but the same technology that facilitates the accessibility and efficiency of transactions also aggravates the problem of copyright infringements. Due to the borderless nature of the internet, copyright infringement now occurs on a worldwide scale.

Considering these changes, the Taiwan government cannot continue to rely on outdated means of combating copyright infringement or be overly concerned with the protection of end users of pirated copyrighted works.

**Suggestion 1: Adopt effective measures to resolve online copyright infringements.**

Many online services are available in Taiwan today for providing legitimate content of music, motion pictures, television programming, games, software, and other copyrighted materials at reasonable – often inexpensive – prices. Still, many consumers in Taiwan continue to access unauthorized copyrighted content offered by infringing rogue websites overseas almost free of charge. A recent study conducted in Taiwan found that most of those surveyed recognize that online piracy is equivalent to theft, and that not enough is being done to deter such activities. The use of illicit streaming devices (set-top boxes used for piracy), apps, website linking, or OTT (over-the-top) services and “plug in” media players to facilitate online copyright infringement represent the fastest-growing challenge to effective copyright enforcement.

Over the past few years, Taiwan has attempted, without success, to find effective solutions to the proliferation of online copyright infringement. Certain websites profit from copyright infringement of others’ valuable creative content, restricting the rights-holder’s ability to make sales and poisoning the legitimate market for local and foreign creators and their distributors. Such pirate websites are a drain on the legitimate Taiwan digital economy, and represent a shockingly large percentage of all internet traffic – 23.8% of all internet bandwidth in North America, Europe, and the Asia-Pacific. In addition, users who are free-riding on unauthorized content are vulnerable to downloading malware or being exposed to high-risk advertising.

Taiwan’s approach to combatting on-line piracy is seriously out of date. More than 40 countries or territories around the world – 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 already adopted effective administrative or judicial approaches to prevent access to copyrighted content offered by overseas unauthorized resources. In particular, the Court of Justice of the European Union has confirmed that providing website blocking injunctive relief to rights-holders is permitted under EU legislation and Article 8(3) of the EU Copyright Directive.

Given the failure of TIPO’s attempt to adopt an effective administrative approach several years ago, this Committee suggests amending the IPR Case Adjudication Act to provide
a clear and swift legal basis and procedures for copyright holders to obtain injunction relief from the IP Court to block access to overseas rogue websites, irrespective of questions of jurisdiction and the absence of defendant infringers.

We suggest adopting the following three measures, each of which has been implemented in other countries where they have proved effective in reducing online piracy rates and increasing legitimate in-country online content services:

1. **Develop an Infringing Website List (IWL) of illegal pirate sites to be vetted and held by law enforcement agencies, and obtain agreement from online advertisers not to do business with IWL sites.** As a result of ads placed on pirate sites, often out of ignorance of the nature of the sites, major brands may inadvertently provide them with economic support, while at the same time siphoning funds away from legitimate content creators. This problem is worldwide and not unique to Taiwan.

Some other major content markets, like the United States and United Kingdom, have adopted a “follow-the-money” approach,” which has proved to be an important tool in the piracy fight. This approach was led by the London Police Intellectual Property Crime Unit (PIPCU), which has worked in partnership with the UK online advertising industry and rights-holders. Officers first attempt to contact the owner of the illegal site to offer them the chance to operate legitimately. If the illegal site fails to comply, it is placed on the IWL, which is held by the police unit on an online portal, where it provides advertisers, ad agencies, and other intermediaries with a reliable reference for websites that should be avoided for advertising placement in order to protect their (or their clients’) brands and to avoid inadvertently promoting copyright piracy. The consequent disruption in the revenue flow to pirate sites discourages infringers from engaging in that business model.

2. **Amend the laws to provide a no-fault remedy for ISPs to disable access to infringing websites.** As a result of increasing online infringement, 42 governments worldwide have adopted narrowly tailored measures requiring internet service providers (ISPs) to take reasonable steps – known as site-blocking – to disable access to primarily infringing websites. Most countries already disable access to websites to address specific societal harms, for example halting access to child pornography, and an increasing number of countries in the Asia Pacific region, including South Korea, Australia, and Singapore, have adopted a remedy specifically designed to disable access to websites built on copyright infringement.

While each of these countries has implemented the remedy in a slightly different manner, the goal remains the same: ensuring that the internet is open to 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 as locating the server offshore to avoid detection and enforcement, countries have deemed it necessary to adopt a “no-fault” approach whereby ISPs are instructed to disable access to an infringing site but are not themselves held liable for the site’s infringement of copyright. The law of the United Kingdom is particularly instructive as to how a simple injunctive relief provision can be employed to effectively reduce online infringement.

3. **Adopt legal provisions to prohibit the marketing and distribution of plug-and-play media devices that facilitate online copyright infringement.** The use of “plug-in” media players to facilitate online copyright infringement represents the fastest growing challenge to effective copyright enforcement, retarding growth and innovation in the global audio-visual industry (including film, television, sports, music, and other audio visual content).

Addressing this issue requires a comprehensive strategy that deals with each component of the problem:

(a) the relevant apps and add-ons, as well as the entities and individuals who create, exploit and host the apps and platforms that facilitate access to the infringing content;

(b) the applicable hardware devices, as well as the entities and individuals who import, load, advertise, market, and sell the devices; and

(c) the entities and individuals who host and promote services from where the infringing content can be accessed.

Where consumers currently may have to acquire physical devices and/or load up specific platforms or other software in order to access the content via television, fast-developing innovations will soon make it possible to access the content directly from a TV set or other device in a consumer’s living room – as long as that TV or device is connected to the internet.

The global nature of this phenomenon presents additional issues. For example, Taiwan consumers are accessing content such as live U.S. National Football League football broadcasts or releases of films and TV content that has not yet been legitimately released in Taiwan (or that may be pending release or still showing in Taiwan cinemas). For such unauthorized content, children and young people in Taiwan cannot be informed about and protected from age-inappropriate content or advertising. Effectively tackling this issue will require action in several different areas, including the enactment of relevant legislation. Currently, gaps in Taiwan’s legal framework make it difficult to secure successful prosecutions against the key individuals involved in the marketing, selling, distribution and delivery of the content, the platforms...
facilitating it, and the software that connects the sources of content with the individual devices. Ways must also be sought to overcome the significant challenges faced when gathering evidence and undertaking enforcement actions in this area, due to the complex technical nature of the devices and associated services, and the international nature of the networks and infrastructure that support them.

Suggestion 2: Enact needed revisions to the Copyright Act.

The Committee was encouraged that a number of positive reforms to the copyright law were proposed when Taiwan was actively preparing its candidacy for participation in the Trans-Pacific Partnership (TPP) trade agreement. However, these reforms were not incorporated in the latest draft amendments to the Copyright Act. We recommend the following steps to strengthen that bill:

1. **Maintain the penal provisions set out under the current law, in particular the public crime status for optical disc piracy, carrying a minimum six-month prison term.**

   The more advanced reproduction media and technology available today can store infringing works with much higher quality and quantity, thus posing an even greater threat to the legitimate businesses of rights-holders. 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. Considering that the physical sales of sound recordings accounted for 50% of the Taiwanese recording industry’s revenue in 2015, there is no justification for relaxing or reducing the level of penalty against optical disc piracies.

2. **Remove the proposed exemption for retransmission of content received by use of home-use facilities.**

   The proposed exemption for retransmission of content received by use of home-use facilities would unreasonably extend the permissible exceptions under the WTO’s TRIPS (Trade-related Aspects of Intellectual Property Rights) agreement, to which Taiwan is a signatory. The exemption would fall afoul of the three-step test set out under TRIPS, as was confirmed by a WTO panel in a ruling on a proposed “business exemption” in the U.S. Copyright Act that is similar in effect to the provision now being proposed by the Taiwan Intellectual Property Office (TIPO).

   The problem lies in the vagueness of the term “home-use facilities” and the difficulty in distinguishing home-reception facilities from commercial facilities, which would keep the exception from being applied only to “certain special cases.” The proposed amendment would not effectively limit the use of “home-use facilities” for commercial purposes or in commercial premises. Further, it does not satisfy the other conditions required under the three-step test, as it would fail to avoid “conflict with a normal exploitation of the work” and pose unreasonable prejudice to the “legitimate interests of the author.”

3. **Extend the term of protection to 70 years consistent with the global trend.**

   Currently 64 countries protect sound recordings for 70 years or longer, including 18 out of the top 20 music markets, as well as 29 out of the 32 OECD member countries.

   In the United States, sound recordings are protected for a period of 95 years from publication or 120 years from their creation, whichever expires first. In September 2011, the European Union extended the term of protection to 70 years in all member states. Other countries with copyright terms of 70 years include Australia, Argentina, Brazil, Chile, Ecuador, Singapore, South Korea, and Turkey. In India the term is 60 years, in Mexico 75 years, and Honduras 77 years. Extending the term of protection in Taiwan from the current 50 to at least 70 years would not only bring Taiwan in line with the international standard, but also bring a number of important advantages to the Taiwanese economy and the creators of sound-recording content. The longer potential economic life of a sound recording would give producers a stronger incentive to invest in the local recording industry, benefitting economic growth, job creation, and tax revenue. It would also encourage producers to continue to offer recordings to local consumers in updated and restored (digital) formats, contributing to the preservation of local culture by ensuring that classic creations produced in Taiwan in the fifties and sixties continue to be protected.

4. **Increase the minimum compensation to NTS30,000 per infringement when calculating damages so as to properly cover the copyright owner’s accumulated losses.**

   The advent of the internet and e-commerce has reshaped the global business landscape, and transactions are no longer bound by national boundaries. Taking software as an example, a single key can be activated hundreds or thousands of times without sacrifice to the quality of the work. In many cases of illegal hard-disk loading, where retailers sell their computers by installing unauthorized software, the courts often assess damages based on the number of disks and USBs seized during raid, ignoring the fact that the disks or USBs may have been used multiple times for illegal duplication on many devices sold prior to the raids. Because the nature of digitalized content is that it can be duplicated so easily, especially online, it is usually hard to prove the actual loss for copyrighted work. It is generally agreed that one of the most important ways to protect copyright holders is for the courts to award damages that both properly reflect the loss to the rights-
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holder and are sufficient to deter further infringements. Currently, Article 88 III 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 NT$10,000 and not more than NT$1 million. Instead of applying the statutory compensation clause in copyright infringement cases, courts in Taiwan have consistently held that the damage equals the market price of the software in the disks seized during raids. The courts’ reluctance to apply the statutory compensation clause renders Article 88 III futile. Copyright holders’ losses are not properly compensated because past lost royalty revenue is not taken into consideration.

The current fourth draft of Copyright Act amendments revises Article 88 III by removing the prerequisite of “difficult for the injured party to prove actual damages,” and allows copyright owners to claim statutory damages in the range of NT$10,000 to NT$1 million. This change is an improvement in that it removes the obligation for the injured party to first prove difficulty in determining the actual damages before seeking statutory compensation. But the problem still persists of how to adequately reflect copyright owners’ past lost license fees. To address this problem, we suggest raising the minimum amount allowed for statutory damages. The NT$10,000 level was set in 1992 and has never been adjusted. The maximum fine was NT$500,000 when introduced in 1992, and was raised from NT$1 million in 2003, but the maximum amount has rarely been awarded by the courts. After 25 years of rapid technological development ushering in the internet age, we believe the time has come to raise the minimum statutory compensation to NT$30,000 to properly protect copyright owners for past lost license fees.

Suggestion 3: Remove unreasonable restrictions to CCMOs’ rate settings.

Amendments in 2010 to the Copyright Collective Management Organization (CCMO) Act gave greater freedom to content users to appeal to TIPO for rulings revising the copyright royalty fees set by CCMOs. Although both CCMOs and users have been dissatisfied with TIPO’s intervention in rate setting, TIPO has so far continued to insist on maintaining the review system.

The Committee urges TIPO to reconsider its stance – if not by totally eliminating the copyright tariff-rate review scheme, then by setting reasonable requirements governing users’ applications. Specifically, users should not be entitled to file a tariff review application under the following conditions:

1. When more than 30 days have passed after the publication of a new or revised tariff rate proposed by the CCMO;
2. When a similar tariff rate had been reviewed and set within the past three years, regardless of whether any judicial remedy was sought;
3. When a previous settlement or agreement was reached regarding the tariff rate at issue, and the applicant cannot provide a convincing reason why a new ruling is needed.

MEDICAL DEVICES

The member companies of the Medical Device Committee view our mission as making new and innovative technologies available in Taiwan, thereby improving the healthcare system’s ability to offer superior patient benefits on a continuous basis.

To achieve our mission, we consider it crucial to work in close collaboration with Taiwan’s government authorities to streamline the registration process so as to help Taiwan patients benefit earlier from cutting-edge technologies and products. It is also imperative to implement a transparent, more predictable and sustainable pricing and reimbursement process to encourage the faster introduction of new technologies, despite the existence of financial constraints. Following are our specific recommendations:

Suggestion 1: Reduce the pre-market registration time.

1.1 Waive the request for a “Certificate to Foreign Government.” Taiwan is one of the few countries in the world that requires submission of either a “Free Sale Certificate” (FSC) or “Certificate to Foreign Government” (CFG) as part of the process for registration of medical devices. In most countries, the document is no longer required or has been replaced by alternative supporting documents. Most manufacturers today are involved in cross-national production. Many of them are engaged only in the manufacturing process, without marketing products in the country of origin. As a result, they are unable to provide a FSC/CFG certificate when applying for a new registration or to extend existing licenses.

Information about the manufacturing facility and the products as indicated in the FSC/CFG can be found from other sources, such as the product label, the instructions-for-use booklet, the original Letter of Authorization, etc. In addition, it should be noted that more than 10 years have passed since implementation of the Good Manufacturing Practice (GMP) system for medical device manufacturers. Both domestic and international manufacturers must fulfill the GMP requirements, as a result of which international quality-control standards have been comprehensively achieved in the Taiwan market.

The Committee requests gradual removal of the FSC/CFG
requirement to reflect global trends in medical device laws and regulations, and align domestic manufacturers with their international counterparts. During the first phase, proof of marketing authorization in the United States, the European Union, or one of the A10 countries could be used as an alternative to the FSC/CFG, followed at a later stage by cancellation of the requirement altogether.

1.2 Simplify the renewal requirements for Quality System Documentation (QSD). QSD is required to be renewed every three years. Currently, the requirements for the initial QSD application and for renewal are the same. In the interest of making the review process more efficient, the Committee suggests that unless major changes are being made in quality-related matters or extensions are being proposed in the product line or scope, the QSD renewal requirements could be waived for quality documents related to tier 1 and tier 2 standard operating procedures. The result would be to significantly reduce the time for QSD renewal submissions. The manufacturer would be responsible for keeping all quality-related documents in a manageable and controlled manner so that they could be made available as necessary at any future time for review or inspection as requested by the Taiwan Food & Drug Administration (TFDA).

Suggestion 2: Disclose more information on the progress of reviewing proposed additions and revisions in medical service procedures.

We are grateful to the Pharmaceutical Benefits Division of the National Health Insurance Administration (NHIA) for proactively introducing a search function for tracking the progress of application reviews for new-function medical devices. We also appreciate the Medical Affairs Division’s efforts to increase the frequency of review meetings so as to accelerate decisions on the addition or revision of medical service procedures.

At the same time, there is a need for the disclosure of more information about the review process. Such disclosure would not only be in line with the spirit of the Second Generation NHI, but would also help the public to better understand NHI policy direction and participate appropriately. It would also enable medical device manufacturers to make timely market-access plans to support clinicians in developing appropriate treatment modalities.

The Committee recommends that NHIA disclose detailed information from NHI meetings concerning the reimbursement fee schedule, reference lists, and global budget; publish historical data on the usage of medical services and procedures for better evaluation of the budget impact of new medical devices and technologies; and develop a search function for tracking the progress of applications for adding or revising medical service procedures as they relate to new-function medical devices.

Suggestion 3: Simplify the review process for new balance billing items.

For each new balance billing item, manufacturers need to submit a fresh application for approval by the NHIA expert group and the Special Material PBRS (Pharmaceutical Benefit and Reimbursement Scheme) Joint Committee after they have evaluated the clinical efficacy and budget impact. Approved items usually have the characteristics of providing a better treatment outcome, fulfilling clinical needs, or providing patients with different options. However, the new balance billing items are subject to further review by the National Health Insurance Committee (NHIC) of the Ministry of Health and Welfare (MOHW), which takes six months to a year or more.

NHIC is the important body for supervising NHI business and regulations, and allocating global budget.

To aid in the review of new balance billing items, NHIC in 2016 established a set of checkpoints and principles. We believe that rather than reviewing items case by case, it would be sufficient for NHIC to ensure that those guidelines and principles are followed, and later regularly review balance billing reports to monitor usage. For the sake of better patient access to new medical devices, the Committee suggests that NHIC authorize the Special Material PBRS Joint Committee to decide on new balance billing items by following the same procedure as used for the review of new-function devices.

Suggestion 4: Modify the medical device Price-Volume Survey system.

Medical device reimbursement is based mainly on the product’s functionality, with all devices performing the same function reimbursed at the same price. Thus, a newly launched medical device – regardless of its manufacturing site or design characteristics – will be reimbursed at the same price as that of a product in the same functional category that was listed many years before. In addition, because of the system of setting the reimbursement price by “points” rather than “fees,” hospitals bargain to obtain transaction prices lower than the reimbursement prices in order to make up for losses due to the floating point value. Even though the price discount is different for newly launched medical devices and similar devices launched many years before, the new reimbursement price after the Price-Volume Survey (PVS) will be based on the volume-weighted actual transaction price among all devices in the same category, without considering the differences in manufacturing cost and transaction price among the products.

The above two situations may cause a newly launched device to lose its price competitiveness over time.

Given that the low reference base may cause low pricing for new-function medical devices, companies may be discouraged from launching new medical devices in Taiwan. Even more worrying is the prospect that currently listed
medical devices may be withdrawn from the reimbursement category or from the Taiwan market due to price constraints.

The Committee therefore suggests that the NHIA Pharmaceutical Benefits Division discuss with industry how to adjust the PVS for special materials, establishing a stop-loss and bottom-price mechanism and simplifying the PVS administrative process.

OTHERS

CHIROPRACTIC

Suggestion: Develop a practical plan to recognize the profession of chiropractic.

In each edition of the Taiwan White Paper since 2006, the chiropractic doctor members of the American Chamber of Commerce in Taipei have presented the same request: provide a legal basis in Taiwan for the chiropractic profession as has been done in over 90 countries in the world.

With the help of the National Development Council (NDC) and the Ministry of Health and Welfare (MOHW), a number of discussions have been held in recent years about a possible way forward, but no clear solution has yet been found. In the meantime, the Taiwan population continues to age at a rapid pace, and by 2025 Taiwan is expected to become a “super-aged” society, with those 65 years old or more accounting for 20% of the people.

One of the central policy directions of the Tsai Ing-wen administration is to provide well-established long-term care for Taiwan’s elderly, helping to ensure that they can enjoy a healthy and active lifestyle for as many years as possible. But the challenge will be to provide the needed services without placing an overwhelming burden on a healthcare system that is already under financial pressure.

Part of the answer to that challenge would be to expand the availability of chiropractic services in Taiwan. As a form of treatment that uses neither surgery nor medication, chiropractic is a less costly alternative, and there is no expectation that chiropractic would be included for coverage under the National Health Insurance program. Yet chiropractic’s effectiveness and safety in treating low-back pain, neck pain, headaches, and other neuromusculoskeletal ailments has been clearly proven in a number of studies, as the World Federation of Chiropractic reported to the World Health Organization in 2012. One such study – of four years’ data from a large Chicago HMO – was published in 2004 in the Journal of Manipulative and Physiological Therapeutics, showing that the services provided by chiropractic doctors can help reduce healthcare expense by at least 50%.

Besides the aging of the population, another evident trend in Taiwan in recent years has been the increase in physical activity – whether cycling, running, hiking, or working out in the gym. Those activities, while positive in creating a fit and healthy populace, may also lead to aches and pains that chiropractors are uniquely trained to deal with.

What has accounted for the reluctance in Taiwan to legalize chiropractic? In the past, a major obstacle was the health authorities’ tendency to regard chiropractic not as a profession but merely as a technique – a technique that other healthcare workers could learn and perform. Gradually, however, the understanding has grown that chiropractic doctors are highly trained professionals who have gone through a rigorous five-year course of post-graduate study after university.

Today the bigger impediment is a classic chicken-and-egg question of how to integrate chiropractic into the Taiwan healthcare system when there is no current provision for it. MOHW continues to insist that the process must start with the establishment of a chiropractic course of study in one of the local medical schools. Over the years the idea has been raised with several medical colleges, but no school would reasonably be willing to make that investment in resources without clear assurance that its students could be licensed as professionals after graduation.

The proposal would be feasible only if the government takes an active role in working with a selected college or colleges to develop a comprehensive plan. Ideally, the NDC, MOHW, and Ministry of Education would join forces to bring this idea to reality.

In addition, since it would probably take at least a decade before the first Taiwan-educated chiropractic doctors would complete their training, the interim plan should include modification of existing law to recognize the qualification of foreign-licensed chiropractic doctors to practice in Taiwan.

Given the cost-effectiveness of chiropractic and the contribution it can make to Taiwan’s aging population, it would be reasonable for the still relatively new Tsai administration to wish to take a fresh look at this question – and to see whether it can achieve a breakthrough in a White Paper issue that is now already into its second decade.

TOBACCO

Suggestion 1: Maintain transparency in adopting tobacco control policies.

In line with the government’s new practice of extending the public notice and comment period for proposed new regulations from the previous 14 days, in early 2017 stakeholders were given 60 days to comment on draft amendments to the Tobacco Hazards Prevention and Control Act (THPCA). This development was highly welcome as a potential means of enhancing transparency and accountability in the making of public policy.

At the same time, it needs to be stated that the length of the notice and comment period is not the only measure of transparency. The THPCA draft contains a number of
controversial provisions, such as the introduction of plain packaging, enlargement of the area on the packaging for warning pictorials and text, a ban on additives, and the stipulation that three repeat administrative violations will cause suspension of an enterprise’s business license.

Yet the amendments were drafted without the holding of public hearings to solicit the views of various stakeholders and experts about the potential impact of the proposed legislation, including the effect on Taiwan’s international trade obligations, protection of trademarks and other intellectual property rights, market stability, and the rights of lawful manufacturers. Neither was any meaningful study conducted to assess the socio-economic impact.

This questionable process raises the suspicion that the 60-day comment period may be simply a formality, without genuinely fulfilling the intended purpose of ensuring that government policies are based on objective evaluation after comprehensive analysis and broad consultation across the spectrum of opinion-holders. A more open and impartial process would only strengthen Taiwan’s economic and trade environment and international competitiveness.

**Suggestion 2: Integrate the tobacco product excise tax and Health Surtax.**

As outlined in previous editions of this section of the Taiwan White Paper, government policies with regard to the tobacco product excise tax and Health Surtax (HST) should adhere to the principles of “reasonableness, gradualness, and predictability,” since drastic increases in those taxes inevitably lead to increased sales of illicit and untaxed tobacco products. Recently the Legislative Yuan raised the tobacco excise tax from NT$590 to $1,590 per 1,000 sticks – nearly a threefold increase. Although this increase in the excise tax will only take effect on July 1, it is very likely to cause many consumers to turn to cheap cigarettes that have been smuggled into the market to avoid customs duties and taxes.

This anticipation effect is indeed supported by Ministry of Finance data showing that from September 2016 – when news of the planned increase was announced – through the end of last year, the volume of illicit cigarettes uncovered by the authorities rose by about 13% from the same period in 2015. Such a consumer shift to low-priced, illicit products is clearly detrimental to government finances, public health, and lawfully operating businesses.

Following implementation of the tobacco excise tax increase and in light of the above factors, it is now important for the government to monitor the illicit cigarette market and adopt reasonable and effective measures to restrict any growth in those sales. Further, after this steep increase in the excise tax, the authorities should avoid any increase in the HST, so as to avoid further burdening consumers, fueling additional growth in illicit trade, harming market stability, and diminishing government revenue.

Ideally, the government should consider integrating both the excise tax and HST into a unitary tax to help ensure that any adjustments are carried out according to the principles of “reasonableness, gradualness, and predictability.” Treating increases in the excise tax and HST separately only makes it more difficult to adequately evaluate their potential impact on the lawful industry, leading to the unintended consequences of stimulating the growth of the illicit market and diminishing government revenue.

**PHARMACEUTICAL**

In the 2016 Taiwan White Paper, this Committee made three main suggestions to the Taiwan government for the betterment of Taiwan’s pharmaceutical environment:

- Strengthen Intellectual Property Right (IPR) for innovative products.
- Expedite the regulatory and reimbursement reviews of new drugs/indications.
- Provide more funding to the healthcare system.

The Committee recognizes the positive progress made by government in several key areas:


2. An increase in the R-zone (Reasonable-zone) price protection from 3% to 5% for Category 3A drugs from February 2016.

3. More frequent periodic engagement with the pharmaceutical industry by relevant government agencies, including the Ministry of Health & Welfare (MOHW), Taiwan Food & Drug Administration (TFDA), and National Health Insurance Administration (NHIA).

At the same time, however, the Committee believes that significant improvements are still needed regarding some key issues. IPR protection remains a major concern, as the legislative process for the Patent Linkage and Data Exclusivity amendments has not been completed. In addition, the slow regulatory review timeline for new drugs and new indications still prevents quick access by Taiwan patients to the most innovative drugs. The situation is further aggravated by the long reimbursement timeline, low reimbursement approval rate, and low reimbursement price compared to benchmark countries.

To make matters even more challenging, unexpected deep price cuts were imposed based on the Drug Expenditure Target (DET) mechanism, since the growth in the drug expenditure budget could not match the increase in drug expenditures. Hence, there is an urgent need for greater transparency, predictability, and reasonableness in the pricing
system through DET. At the hospital level, additional pressure is coming from growing demand for price discounts for drugs to be listed on the hospital formulary.

As a result, the Committee would like to propose three new suggestions for the reference of the Taiwan government as means of better serving Taiwan patients and key stakeholders:

1. Complete the legislative process for Patent Linkage and Data Exclusivity to strengthen IPR protection for innovative products.
2. Shorten the regulatory and reimbursement approval timeline for new drugs and indications to provide timely patient access to innovative new drugs.
3. Place the healthcare system on a sound and sustainable footing.

The Committee looks forward to active support from the Taiwan government to create a positive pharmaceutical-market environment. We hope that all key stakeholders – including government, hospitals, and pharmaceutical companies – can work together to ensure that the best pharmaceutical products and services are made available to Taiwanese patients, who are always at the center of our focus.

**Suggestion 1: Complete the legislative process for Patent Linkage and Data Exclusivity to strengthen IPR protection for innovative products.**

Creating an investment environment in Taiwan that encourages and rewards innovation will be essential for Taiwan’s participation in further bilateral 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 IPR protection. We appreciate the government’s commitment in preparing legislation to implement Patent Linkage and further enhance the existing provisions for Data Exclusivity. The relevant Pharmaceutical Affairs Act amendments went through a first reading at the Legislative Yuan in 2016, but have yet to undergo second and third readings so as to be enacted into law.

The Committee urges the government to include the relevant bill in the list of priority legislation for the autumn 2017 session of the Legislative Yuan, so as to close major gaps between Taiwan’s current regulatory framework and that of high-standard trade agreements. Currently, in the absence of a Patent Linkage mechanism, there is no effective way to prevent infringing drugs from entering the market while the original product is still under patent production. In addition, the existing Data Exclusivity coverage is limited, confined to new components of new drugs.

**Recommendations:**

1. Establish a simple, clear and workable regulatory system for Patent Linkage.

(a) Follow U.S. practice by listing patents by number instead of by patent claims to prevent TFDA from being embroiled in potential disputes over certification.

(b) Rigorously implement IPR protection by releasing licenses and reimbursement prices to others only after the originator’s patent has expired.

2. In addition to new indications, extend Data Exclusivity coverage to new formulations and new methods of drug administration and provide 12 years of coverage to biological products.

3. Enhance IPR protection by enacting the proposed legislation this year to establish a Patent Linkage mechanism and broaden Data Exclusivity coverage.

**Suggestion 2: Shorten the regulatory and reimbursement approval timeline for new drugs and indications to provide timely patient access to innovative new drugs.**

Considering that innovative drugs are a key contributor to improving patients’ health outcomes, they should be a priority area for government investment in healthcare spending. According to *Biopharmaceutical Competitiveness & Investment* (BCI) 2016, a global executive opinion survey and index of economies’ biomedical investment-attractiveness, economies with policies supporting biopharmaceutical innovation and investment – such as robust IP protection and a supportive market-access environment – are much more likely to secure further investment, not only in biotech but in other sectors as well. An innovative biotechnology investment environment can thus be seen as a prerequisite for sound national economic development.

According to recent statistical data, the regulatory review timeline for new drugs and new indications has improved slightly, but there is still much room for improvement. The average review time for new chemical entity and biologics applications was 400 days in 2016. Only 43.3% of the applications met TFDA’s review time target of 360 days. The average review time for new indications was 190 days, with only 44.7% of the applications meeting the review time target. The Committee is concerned that the delays in the new-drug and new-indication approval process will impact patients’ right to access needed drugs, especially for life-threatening conditions.

The reimbursement approval timeline for new drugs and new indications has also seen significantly delays. The second-generation National Health Insurance program has now been in place for four years, but reimbursement issues regarding new drugs and indications 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. On average, the reimbursement review for new drugs takes 429 days, longer than under the first generation. Worst of all is the review time of 782 days...
for new cancer drugs, without any sign of improvement. The Committee strongly urges NHIA/MOHW to increase the new-drug budget, and to expedite the review process to help ensure patients’ timely access to solutions to unmet medical needs.

**Recommendations:**

1. **Accelerate the review process for new-drug and new-indication registration.** Use effective processes and mechanisms to speed up the review process for new drugs and new indications. We expect TFDA to meet its commitment to approve new drugs within 360 days and new indications within 180 days for those cases under review or for new submissions in 2017. The Committee suggests that TFDA aim to approve 90% of applications within the allotted time, compared to the level of around 40% in 2016. We also recommend that the government actively cooperate with industry associations to establish appropriate milestones for the new-drug review process. Also needed is a transparent platform for stakeholders to monitor the progress and assist TFDA in achieving the milestones.

2. **Refer to the approved indication content from the U.S. or EU.** Often the new drug or new indication receives approval in the United States or EU while the Taiwan registration process is still underway. If there is no specific consideration related to ethnicity or geography, it should be appropriate to use the approved U.S./EU indication content. For some cases approved by TFDA but with restricted indications that are not the same as in the U.S./EU, the approval was delayed and also some patients could not use the drug because of the indication limitation. In addition, global pharmaceutical companies might hesitate to engage in clinical trial investments and submit early applications for registration in Taiwan, which may impact local patients’ rights. To avoid restrictions that would delay patient access, we ask TFDA to approve new indications on the same basis as the U.S./EU.

3. **Increase the new-drug budget through a three-phase approach.**
   - **Short-term – Allocate current NHI savings toward funding new-drug/new-indication reimbursement:**
     1) **Savings from the annual DET price cut.** The excess from the NHIA-adjusted drug prices from the 2016 DET came to NT$5.71 billion.
     2) **Claw-backs from Price-Volume Agreements (PVA).** As PVAs are signed as part of the reimbursement process for new drugs or indications, the claw-backs should be viewed as “subtractions” from NHI expenses and therefore returned to the global budget. As the claw-backs come from new drugs or new indications, they should be allocated for new-drug budget.
   - **Medium-term – Change the policy mindset and reallocate NHI resources.** NHI currently covers an expansive range of ailments from the common cold to severe diseases. Given budget constraints, however, NHIA should shift its priorities by providing insurance coverage only to serious diseases. Funds for the new-drug budget could be increased by delisting OTC drugs from NHI reimbursement and/or considering adoption of a copayment mechanism.
   - **Long-term – Align new-drug budget planning with the following year’s new-drug reimbursement forecast.** In order to allocate sufficient amounts for new-drug reimbursement and to provide patients with timely access to necessary treatment, the Committee suggests that NHIA calculate the total amount of new drugs that will be available and needed in the following year, and establish a sound budgeting methodology to estimate the next year’s new-drug budget. This exercise can provide a predictable new-drug reimbursement timeline so that patients’ access to innovative medicine will not be delayed or blocked due to budgetary constraints.

4. **Ensure that Taiwan patients have access to innovative new drugs by adopting Managed Entry Agreements (MEA).** The growing patient demand for timely access to promising therapies in areas of unmet medical needs has led to development of a new product-reimbursement paradigm that balances financial impact and the value of new medicines to help ensure patient access to innovative medicines. An example is the use of contractual arrangements between manufacturers and payers known as Managed Entry Agreements, which permit coverage/reimbursement of a health technology subject to specified conditions. All the terms of the MEA should be confidential.

MEAs bring such major advantages as 1) Reduced uncertainty regarding effectiveness and/or cost-effectiveness; 2) Better patient access to innovative treatments; 3) More flexibility regarding coverage decisions; 4) An ability to address different needs through different schemes; 5) Better control of budget impact; 6) Improved cost-effectiveness; and 7) Improved decision-making.

An MEA is seen as particularly applicable for meeting unmet medical needs when conventional approaches, such as PVAs or restricted reimbursement criteria, make it difficult to grant reimbursement. For Taiwan, establishment of an effective MEA mechanism should be seen as an urgent task. The Committee urges the Taiwan government to collaborate with all stakeholders, including drug manufacturers, healthcare professionals, and patients, to draft necessary legislation to create an MEA mechanism in the interest of ensuring Taiwan patients’
access to innovative new drugs.

More broadly, we suggest that government pursue a “patient-centric” approach to these issues. In particular, breakthrough innovative new drugs should be handled by means of a fast-track review process to expedite patients’ access to drugs that may be potentially life-saving, life-extending, or able to greatly improve patients’ quality of life.

Suggestion 3: Place the healthcare system on a sound and sustainable footing.

In order to provide patients with a better medical-service environment, the Taiwan healthcare system needs more funding, as well as a stable and transparent mechanism for adjusting drug prices. The Committee is grateful 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.

The second pilot DET phase ended in 2016, and it is now time to consider incorporating the practice into the NHIA law on a permanent basis. While DET offers potential advantages in terms of transparency, fairness, and predictability, there are also some key issues to be resolved regarding its future implementation, including revision of the R-zone for mono-source compounds, as well as deduction from the DET calculation of the PVA claw-back and the price adjustments on drugs in their first five years after going off patent.

It is also vital to initiate payment-system reform to reduce hospitals’ dependency on drug discounts. Under the current system, our member companies are asked to provide increasing levels of discount when seeking to list new drugs on hospital formularies. For this reason, some new products are unable to be accessed by patients who need them, even though NHIA has given reimbursement approval. Physicians face a situation in which they can only prescribe what has been listed by their hospital, posing a challenge to their professional desire to make the most effective medicines available to their patients. The Committee urges MOHW and NHIA to reform the payment system to enable healthcare providers to reduce their dependency on drug discounts, expedite patient access to needed drugs, and sustain a more stable drug-supply system.

Recommendations:

1. Develop a patient-centered policy to accelerate the 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. From the drug regulatory process to the hospital listing, it takes a total of approximately 5-6 years for patients to gain access to the new drug. At present, hospitals generally apply a “one-in, one-out” principle at the time a new drug enters their formulary. That is, a new drug may be introduced only after an existing drug is removed. This practice affects patients’ right to medication. It often means, for example, that only one or two versions of a new drug that comes in several dosage forms can be introduced at a time, although the available dosages or formulations may not be what is most suitable for or most needed by a given patient. In addition, a fair and patient-centric approach must also treat imported and domestic drugs equally, particularly regarding inclusion in hospital accreditation indicators.

2. Adopt a more reasonable drug-price adjustment mechanism. As the rate of growth of drug expenditures continues to exceed that of the total healthcare budget, huge price adjustments under the DET mechanism can be expected in the coming years. As a result, the DET baseline needs to be revised from the current practice to one that benchmarks the previous year’s actual expenditure, multiplied by the annual growth rate in the Global Budget. So as to avoid a double price cut, the amount of the PVA claw-back and the price adjustments on drugs in the first five years off product should be deducted from the value of drug expenditures exceeding the DET target. The Committee also suggests devising a more sophisticated R-zone mechanism based on different types of products:

   a) New products with data exclusivity or within the TFDA monitoring period should be given a 15% R-zone because there are no generics to launch. Too large a price cut will cause the product to be withdrawn from the Taiwanese market, with a negative impact on patients’ right to treatment.

   b) Mono-source products require a 12.5% R-zone. Although the major compound has been off-patent or never had a registered patent in Taiwan, it is the only source on this market, without any generics substitution. If there is no price protection, it may be forced to be withdrawn from Taiwan, impacting patients’ rights.

   c) New products that are in the first four years after launch and are without patent may co-exist with generics. An R-zone of 10% could be applied. We suggest that the rest of category 3A medications have a 5% R-zone.

3. 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.

PUBLIC HEALTH

The Committee would like to commend the Ministry of Health and Welfare (MOHW) for its impressive efforts with regard to vaccination promotion, cancer prevention and treatment, prevention and control of viral hepatitis, patient safety, use of antibiotics, and many other important public health issues, as well as for maintaining an open dialogue with industry over the past year.

We urge MOHW to building on these past achievements by undertaking additional efforts with regard to cancer prevention and treatment, stabilization of the national vaccine fund, and control of viral hepatitis, as outlined in the suggestions below.

Suggestion 1: Increase investment in cancer prevention and treatment to reduce economic burdens and the loss of life.

According to 2015 statistics from MOHW, cancer topped the nation’s 10 leading causes of death for the 33rd consecutive year. Cancer’s economic impact is also greater than any other cause of death. A report from the American Cancer Society published in 2010 estimated the worldwide economic impact of premature death and disability from cancer – not including direct medical costs – 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 (about US$715 million) 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.

In recent years, the proportion of healthcare expenditures in Taiwan covered by patient self-payment has been steadily increasing, while the percentage from government funding has been declining. Compared to other OECD countries, the Taiwan government’s contribution as a proportion of total healthcare expenditures and Gross Domestic Product is relatively low. The ratio of national healthcare expenditure (NHE) to GDP has remained in the range of 6.2%-6.6% since 2004. In comparison, the ratio in South Korea increased from 5.2% to 7.8% between 2004 and 2013, while the ratio in Japan rose from 8% to 10.3% during the same period. Since 2004, the ratio in Taiwan has been declining. Compared to other OECD countries, the Taiwan government’s contribution as a proportion of total healthcare expenditures and Gross Domestic Product is relatively low. The ratio of national healthcare expenditure (NHE) to GDP has remained in the range of 6.2%-6.6% since 2004. In comparison, the ratio in South Korea increased from 5.2% to 7.8% between 2004 and 2013, while the ratio in Japan rose from 8% to 10.3% during the same period. As those figures indicate, Taiwan has been under-investing in terms of the budget allocation for public health and the healthcare system. The impact is heaviest for cancer patients, who must increase the amount of self-payment in pursuit of better treatments and an improved chance of survival.

As addressed in the MOHW’s 2025 Health and Welfare White Paper, the Ministry has aligned with World Health Organization (WHO) policy objectives to reduce the cancer mortality rate and premature death rate by 25% by 2020, and to reduce the mortality rate of those in the 30-70 age bracket by 25% by 2025.

However, the National Health Insurance Administration (NHIA) and National Health Insurance Committee (NHIC) have long been mainly focused on budget control, which has directly and indirectly impacted the introduction of innovative new drugs and new health technologies to fulfill patients’ needs. At a time when the NHI program is enjoying some financial surplus, the government should take the opportunity to address some longstanding issues by improving the healthcare services point system and level of reimbursement for new drugs.

With regard to new drug reimbursement, cancer patients face an urgent need to receive innovative treatments to extend their lives and achieve a better quality of life, and thus are forced to increase the degree of self-payment. Given the widespread global trend for governments to increase investment in cancer prevention and treatment, Taiwan should provide enough budget to address this major public health issue and achieve the policy goal of significantly reducing the cancer mortality rate. Continued efforts on cancer prevention are also important, including the elimination of carcinogenic factors and the promotion of frequent cancer screening. Increased investment and sufficient reimbursement of innovative cancer treatments are needed to achieve this policy goal.

We suggest that MOHW review the current level of NHI reimbursement for cancer treatment and reallocate resources to cover new technologies and treatments so as to help patients return to normal lives.

Suggestion 2: Stabilize financial resources for the national vaccine fund.

Since the establishment of the Taiwan vaccine fund in 2010, 46% of the financing has come from government budget allocated from the treasury and up to 53% has come from the tobacco surcharge (the remaining 1% is from other sources). However, the amount of revenue generated by the tobacco surcharge is not stable and has even been gradually decreasing. In 2016, the fund reported a deficit of some NT$320 million, and in 2017 the deficit is estimated to reach up to NT$400 million. In addition, due to the trend of increasing the tobacco tax, the amount of money generated by the tobacco surcharge may decline further.

Such an unstable source of funding has been detrimental to the implementation of new vaccination policies, and is...
therefore worthy of the government’s attention. An example is the proposed program for vaccinating the elderly against *Streptococcus pneumoniae*. The program has been suspended for two years (2016 and 2017) due to the shortage of funds from the tobacco surcharge. Other projects, including human papillomavirus (HPV) vaccines for teenage girls and rotavirus (RV) vaccines or hepatitis A virus vaccines for children, are still pending implementation.

In other Asia Pacific countries such as Japan, Hong Kong, Malaysia, and Australia, vaccination programs are financed completely by the government budget from the treasury. In Japan, Korea, and Australia, in addition, vaccination for the elderly against *Streptococcus pneumoniae* is fully covered by government funding, while it is partially covered in Hong Kong. Globally, 62 countries have provided public-funded HPV vaccines, while 81 countries have public-funded RV vaccines. Because of the increase in international travel, the war against emerging diseases has become more and more challenging. In response, countries around the world have expedited their schedule to establish a comprehensive vaccine protection network. Taiwan should not fall behind.

As medical technology improves, more and more vaccines have been developed to fight against illnesses. From a public health perspective, it is necessary to invest sufficient resources. Vaccines are not only an effective public health measure, but also a high-value investment in terms of driving social development and economic growth. According to the statistics from the U.S. Centers for Disease Control, on average each US$1 in investment on vaccine development brings US$10 in reduced medical and social expenses.

This Committee therefore encourages the Taiwan government to secure the finances of the vaccine fund by making it completely dependent on the government budget from the treasury. Once the vaccine fund is stabilized, the government will be able to implement the postponed vaccination programs and plan additional future projects, so as to ensure that the quality of disease containment in Taiwan is aligned with international standards.

**Suggestion 3: Build an effective and sustainable national program for the prevention and control of viral hepatitis.**

Taiwan has made significant headway in fighting the hepatitis V virus (HBV) and its related diseases. A milestone was the 1984 implementation of the world’s first large-scale 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. Starting this year, another recent achievement was to give hepatitis C virus (HCV) patients meeting certain criteria access to innovative treatment with a high success rate in curing the disease. This direct-acting antiviral (DAA) treatment is covered by NHI reimbursement. However, HCV control still faces challenges, including low diagnosis and treatment rates due to strict patient-enrollment criteria. Despite a government-sponsored screening program, only 30% of HCV patients are diagnosed and most patients need to wait until the disease worsens to be eligible for reimbursed treatment. 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.

By opening HCV patients’ access to DAA treatment, Taiwan is taking a big step toward meeting the goal of the 2015 Glasgow Declaration on Hepatitis, which aims to eliminate viral hepatitis as a public health concern by 2030. The Committee therefore urges the government to assure a sustainable source of funding for HCV treatment, based on appropriations from the general government budget rather than NHI finances. We believe that a sound policy framework can prevent new infections, improve surveillance and medical care, and increase the public’s disease awareness. Taiwan has a real opportunity to reduce the significant social and economic burdens of hepatitis B and C, helping toward rendering the world hepatitis-free.

**REAL ESTATE**

In recent years, the Taiwan government has made continuous efforts to improve the real estate market as well as the urban landscape. For instance, the revised Real Estate Transaction Declaration and amended Urban Renewal Act have both increased market transparency and fairness for investors and homebuyers. At the same time, further changes are needed in the regulatory regime if Taiwan is to reach its potential within the international investment market. Global cross-border investments in real estate amounted to US$211 billion in 2016, accounting for 32% of the total value of property transactions. Most investors prefer to allocate their investments to 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 further in hopes of stimulating discussions with the relevant governmental agencies in order to further improve market conditions and 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 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, however, although the tax rate for property resold within a year is the same 45%, after one year the rate remains at 35% no matter how long the property is held. Last year this Committee suggested that the government reconsider this policy, since it is likely to discourage foreigners – whether individual or corporate – from acquiring property in Taiwan. However, the Ministry of Finance (MOF) and the National Development Council both responded that the tax rate for foreigners was mainly intended to prevent property speculation and market overheating. The MOF further suggested that as foreign individuals become permanent residents in Taiwan, they would pay the same rate as local residents. The Committee urges the government to give the unequal tax rates further consideration, as many foreign investors are business or institutional entities such as sovereign wealth funds, insurers, etc. Since most foreign investors strategically allocate large funds offshore primarily to diversify their portfolios and hedge risks, short-term speculation or flipping is less likely.

The Committee recognizes the government’s efforts to prevent market overheating and maintain citizens’ rights in housing, but the elevated tax rate may pose a dampening effect on the market. The control objective can be accomplished through other measures, such as mortgage control, density control, etc. Additionally, the government could request all foreign investors to submit investment applications for approval. Thus, in the interest of fairness, we recommend applying the same tax rate structure to foreign and domestic property owners.

**Suggestion 2: 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 Taiwan is 28.9 years. Approximately 3.8 million residential units in Taiwan are over 30 years old, accounting for 44.2% of the total housing stock. In the capital city, Taipei, the average age is an even longer 32.3 years. More than 58% of Taipei’s 450,000 housing units are over 30 years old, and more than 130,000 are over 40 years old, including many that are gradually deteriorating.

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 or injuring more than a hundred people.

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 a number of different 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. As a result, a typical renewal project needs 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 commends the government’s continual efforts to improve the process. For instance, the Taipei City government has assigned a review committee to evaluate and amend all urban renewal regulations and to speed up the implementation process. However, the Committee continues to urge all levels of government to recognize the importance and urgency of urban renewal and accelerate 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 those structures.

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 actively assist in finding a resolution. In the case of critically deteriorated buildings, it is recommended that the courts take forceful action even if full consent has not been achieved.

Any legal action taken by the courts must of course conform to the law and respect general morality and humanitarian principles. In cases of compulsory execution leading to property expropriation, the owner should be
compensated at 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 by the public as applicable.

Suggestion 3: Relax restrictions on overseas property investment by Taiwanese insurers.

Taiwanese insurance companies became particularly active in purchasing real estate in the years following the onset of the Global Financial Crisis in 2008. As strong demand from insurers pushed commercial asset prices to new highs, the Financial Supervisory Commission (FSC) in 2012 imposed stringent rules on insurance companies’ real estate investment in Taiwan, requiring them to meet a minimum annualized yield. The following year, the FSC relaxed restrictions by allowing Taiwanese insurers to invest in overseas real estate markets. As of April 2017, in line with this deregulation, Taiwanese insurers had closed seven real estate transactions abroad worth a combined total of NT$89.9 billion.

Despite these eased restrictions, insurance companies’ allocations to overseas real estate remain capped at the relatively low level of 1-3% of total capital or 10-40% of owners’ equity, depending on their risk-based capital ratio. In comparison, insurance companies from China and South Korea are both allowed to invest up to 15% of their total assets. Furthermore, new rules effective from March 2016 bar Taiwanese insurers from applying for additional quota if their total overseas investment exceeds the ceiling amount.

Taiwanese insurers are also restricted from engaging in co-investment and stake acquisitions when purchasing overseas assets, although those forms of investment are the norm in many markets, especially the United States. Such rules, especially the prohibition on partnering with other institutional investors and from acquiring stakes in real estate companies in foreign markets, are likely to hinder smaller insurance companies from investing overseas, as the amount of capital they can deploy abroad is small.

Real estate investment is well suited to insurance companies with long-term investment horizons. To enable smaller-sized insurance firms to gain exposure to overseas real estate and help the large ones to achieve greater diversification of their portfolios by geography, the Committee urges the FSC to further ease restrictions on insurance companies’ overseas real estate investment so as to allow them to attain higher returns.

RETAIL

The retail sector continues to be one of the major drivers of the Taiwan economy. The Retail Committee is therefore committed to work in close partnership with government agencies to develop the retail sector and address common challenges. Particularly with regard to food-safety issues, the Committee is dedicated to share best practices from the United States and collaborate with the government to advance the goals set by the authorities. We are pleased to note that cooperative efforts already undertaken with the Ministry of Health and Welfare (MOHW), Taiwan Food and Drug Administration (TFDA), and Food Safety Office of the Executive Yuan have been very well received.

However, the Committee remains concerned by the haphazard way in which some new laws and regulations have been drafted and enacted without thorough public consultation or cost-benefit analysis, and ignoring voices addressing the potential negative economic and social impact of the measures. For instance, TFDA has put a lot of effort into setting strict definitions for such categories as “chocolate” and “cheese,” issues unrelated to food safety but which cause huge cost and wastage in printing revised packaging labels. Likewise, Taiwan’s practice of not recognizing product test reports from overseas suppliers, instead demanding routine repeated testing of imported pre-packaged foods, is unique in the global trade. The compulsory repeated product testing acts like a levy on business without bringing any real value in terms of food safety.

Dietary supplements, which include vitamins, minerals, herbs and botanicals, amino acids, enzymes, and many other products, are one of the fastest growing product sectors in many leading countries. As dietary supplements are beneficial to the overall health of consumers, we recommend that Taiwan establish a dedicated category of dietary supplements to improve their availability to consumers and allow health-related claims to be communicated to consumers.

Greater openness, transparency, and consultation with stakeholders in the regulatory process will lead to more practical and meaningful regulations. Taiwan also needs to be constantly mindful that as a member of WTO, it is obliged to avoid creating any regulations that would constitute technical barriers to trade. We urge the Taiwan government to harmonize its food-sanitation standards and regulations with those of its major trading partners, including the United States. A consistent and stable regulatory environment is one of the key elements enabling consumer protection, business development, and economic growth.

Suggestion 1: Ensure that regulations are proportionate, practical, and supported by scientific and statistical evidence.

The quality of regulations and the regulation-making process are important factors in attracting or deterring foreign investment. A government that respects the rule of law gives investors a strong motivation to consider entering the market.

The Organization for Economic Cooperation and Development (OECD) stresses the need for “accountability and transparency” in rule making. It further states: “The
regulator has a responsibility to the regulated entities to exercise its power in a way that increases confidence in the market, rule of law and in general trust of the state.”

In the past few years, the Taiwan government has made commendable progress in its rule-making procedures, such as increased engagement with relevant stakeholders and lengthening the notification and comment period to 60 days. However, there is still much room for improvement in ensuring that regulations are proportionate, practical, and supported by scientific and statistical evidence.

1.1 Carry out a cost-benefit analysis and disclose the results when proposing a new regulation. In order to be proportionate, a regulation’s benefits should outweigh the costs it may cause to be incurred. The relevant costs to be considered should include the regulator’s monitoring costs, the compliance cost for industry, and other social costs. In pursuing its regulatory objectives, government should then choose the method that is the least restrictive or harmful to the regulated parties.

A recent example of a disproportionate regulatory activity was the TFDA’s announcement of “Regulations Governing the Product Names and Labeling of Chocolate.” Although a legitimate goal existed in enabling consumers to be sure that the products they purchase meet certain specifications, there was no safety issue and the measure will lead to heavy costs – both for the government in monitoring all labels on the market and at the border, and for the food industry in having to redesign and reprint its packaging. Since foreign vendors usually prepare their packages with a two- to three-year lead time, a large amount of packaging materials will have to be disposed of.

Since going into effect, the regulation has caused considerable unnecessary costs for vendors. We hope that in the future when any new regulation is being planned, the government will first conduct a cost-benefit analysis, make the results public, and take those results into consideration when deciding whether or how to put the proposed regulation into effect.

1.2 Ensure that regulations are realistic and have a scientific basis and sufficient risk assessment. In the importation of organic agriculture products, the standard for maximum residue limits (MRLs) has always been an issue. Since neighboring contamination and background residue are usually inevitable, the authorities need to be extremely careful in setting MRLs, especially for organic products. In the United States, for example, it is permissible for organic products to contain pesticides as long as they were not applied directly to the product and the volume of the pesticide residue is lower than 5% of the MRL for regular products.

Problems have occurred because of the public misperception that organic food products must be totally pesticide-free and chemical-free, which is an impossible standard. Consumers also need to be aware that “organic” is not a matter of being pesticide-free, but of natural methods of farm production.

We urge the TFDA to use scientific evidence as the basis for a more realistic approach that recognizes the existence of neighboring/background contamination in organic products and sets reasonable MRLs accordingly. Communicating this reality to the public will pave the way for better development of organic agriculture in Taiwan.

1.3 Harmonize sanitation standards on food products with those of major trading partners. Sanitation standards are established to ensure that food products meet various types of specified criteria. The allowed level of residual pesticide in agricultural products is one such standard. For a crop grown overseas, the pesticides effective against the pests in that region could be different from those used in Taiwan. The United Nations’ Codex Alimentarius Commission has set MRLs for pesticides and Extraneous MRLs for pesticide-commodity combinations. Names and definitions of commodities are found in the Codex Classification of Foods and Animal Feeds, and as of last year the Commission had adopted 4,844 MRLs for different combinations of pesticides/commodities.

The U.S. Department of Agriculture has also set maximum acceptable levels of pesticides and veterinary drugs in food and agricultural products. All these Codex and U.S. MRLs are based on sound scientific evidence. When pesticide MRLs are based only on local practice, it leads to restrictions on imported products, and practically speaking may be a technical barrier to trade. We therefore suggest that the Taiwan government harmonize its sanitation standards for residual pesticides with those of the United States and Codex.

1.4 Consider the timing and manner of implementation when introducing new regulations.

TFDA recently issued a regulation requiring that food industries, including importers, conduct periodic testing on their products. Although the intention was good, the manner of implementation has raised some questions. In its website Q&A, but not in the regulation itself, TFDA stipulates that only local testing reports can be used to fulfill the testing requirement. The Q&A states that reports from the overseas corporate headquarter or suppliers are not acceptable as equivalent to local testing because those sources are “not the same entity” as the Taiwan-based enterprise.

For prepackaged foods, the product is sealed after production and the transportation is conducted under well-controlled conditions. As a result, the additional testing in Taiwan by local labs brings no value to customers and has no meaning regarding consumer safety.
Unless testing reports issued by overseas manufacturers/suppliers are deemed to be of lower quality or fraudulent, there is no reason to deny their correctness or legitimacy. As long as the tests were conducted in accordance with TFDA’s announced testing methods and standards, the testing reports should not be excluded. Repeating the testing locally is not only very costly, but could be interpreted as being a trade barrier.

Another issue is the gradual implementation of Restriction of Hazardous Substances (RoHS) regulations on import commodities by the Bureau of Standards, Metrology and Inspection (BSMI) of the Ministry of Economic Affairs. Again the intention – to protect the environment and consumer safety – is positive. But while the European Union spent more than 10 years to implement the labeling requirement and actually lowered the volume of hazardous substances, BSMI for some reason is requiring several categories of commodities to meet the labeling requirement by January 2018, which provides less than a year's time to prepare. Further, since products bearing the “CE” mark have already met the EU standard, the risk of hazardous substances in imported products is already low, yet all products are still required to have an RoHS label with the BSMI inspection mark in order to be imported. A more reasonable grace period should be provided when introducing new regulations that may present compliance difficulties.

**Suggestion 2: Increase the number of eligible testing laboratories and ensure that test results can be provided in both Chinese and English.**

When new or revised regulations are put into effect, it is stipulated that many of the required tests must be performed by local laboratories in Taiwan. The competent authorities usually specify the laboratories that are eligible to carry out this function. However, vendors often have difficulties due to the limited number or capacity of the eligible laboratories. Some examples:

- The Metal Industries Research & Development Centre is the only lab appointed by BSMI to conduct testing on taps. Vendors often have to wait in line to arrange for tests because of the limited testing load. An average of at least two months is needed to run a batch of tests.
- The Taiwan Children’s Commodities R&D Center is the only lab accepted by BSMI for testing of imported toys.
- The Taiwan Agriculture Chemicals and Toxic Substances Research Institute is the only examining body authorized by the Council of Agriculture to tests pesticide levels in imported organic food products.
- Only the Food Industry Research and Development Institute is authorized by the Council of Agriculture to test for disallowed food additives in imported organic food products.

Vendors’ difficulties in dealing with testing, border inspection, or post-market surveillance have also included the following:

1. Inability of the labs to guarantee completion of the testing before the implementation date of the relevant regulation.
2. Refusal by both the competent authority and the laboratory to provide the test report to the vendor for review of the details.
3. No provision for issuing the laboratory test reports in an English version.

These circumstances have made it hard for vendors in Taiwan and the personnel in foreign companies’ headquarters abroad to understand the details of the testing methods and regulations in timely fashion, further delaying the trade flow into the Taiwan market.

**Suggestion 3: Create a “dietary supplement” regulatory category and protect consumers’ right to know about dietary supplements.**

Dietary supplements are regulated by the TFDA under the subcategory of “food in tablet or capsule form,” whereas most major markets have a distinct subcategory for dietary supplements. “Food in tablet or capsule form” imported into Taiwan must go through premarket approval, and for any ingredients considered to be “substances not traditionally used as food,” additional assessment is needed before the product is deemed qualified for import. For the tablet-food licensing process, TFDA requires importers to provide the ingredient specifications, product name, manufacturer’s details, etc., and a new application must be filed when any of this information changes.

In practice, however, the interpretation and enforcement of the regulations by TFDA and by municipal governments has been inconsistent. Pre-market approval of tablet food by TFDA does not guarantee that local health bureaus will agree that the label is in compliance with regulations, creating a chaotic situation for importers selling products in Taiwan. We urge Taiwan to assure consistency in regulatory interpretation and enforcement among central and municipal agencies.

Dietary supplements have been widely accepted as an important means of improving people’s health, and their value has also been recognized in helping to control health expenditures. A self-regulation mechanism that avoids time-consuming premarket approval process is adopted in most markets. Suppliers are allowed to provide information to consumers on the health benefits of the supplement based on scientific evidence. At the global level, the Codex Alimentarius Commission in 2009 amended its “Guidelines for use of Nutrition and Health Claims” to assist national authorities in their evaluation of health claims to determine their acceptability for use by industry based on scientific evidence.
SUSTAINABLE DEVELOPMENT

The Committee urges Taiwan to keep up with global efforts to reduce illegal deforestation and the conversion of forests to non-forestry uses, protect biodiversity, and minimize greenhouse gas emissions by expanding Green Mark criteria for tissue and paper products to include fiber sourced from forests or plantations managed in a responsible and environmentally friendly manner.

At the same time, our Committee is encouraged by the efforts the Taiwan government has made in promoting a circular economy, including the provision of financial resources through the banks. We encourage the government to take such further detailed actions as 1) requiring that recycled materials make up a set minimum percentage of building materials used for public construction, and 2) expanding the green financing platform and encouraging the issuance of green bonds.

Suggestion 1: Expand the Green Mark fiber policy to allow virgin-fiber paper/tissue products that comply with certain internationally recognized sustainable forest management certifications.

The promotion of sustainable and responsible forestry management has been adopted by governments, businesses, and non-profit organizations around the world as part of global efforts to reduce greenhouse gas (GHG) emissions. In Taiwan, approximately 99% of the pulp, timber, and paper supply is imported, mostly from neighboring Southeast Asian countries where illegal deforestation and conversion of forests to non-forestry uses continue to be rampant. We therefore urge the Environmental Protection Administration (EPA) to speed up adoption of a dual-track approach in its Green Mark system to equally recognize products made with recycled fibers and those made with virgin fibers sourced from forests or plantations that have been certified by an internationally recognized, third-party verified sustainable forest management certification scheme, such as the Forest Stewardship Council™ (FSC™). The Committee has continuously raised this issue since 2010, but progress has been disappointing.

The dual-track approach has been widely adopted around the world, including by Environmental Choice New Zealand and the Singapore Environment Council’s Singapore Green Label scheme. In addition, the U.S. Green Building Council (USGBC), in its latest LEED v4 standard adopted in 2013, set a more stringent bar for earning credits, including the use of recyclable materials for public construction and 2) expanding the green financing platform and encouraging the issuance of green bonds.

Suggestion 4: Prohibit the sale of imported alcoholic beverages for which the original manufacturing lot code has been changed or removed.

In the interest of consumer protection and product traceability, Taiwan has adopted the global practice of requiring the manufacturing lot code to be printed on prepackaged foods, drugs, and many other consumer products. Alcoholic beverages have not been covered by this regulation, however, and many instances have been found in which alcoholic products are sold in Taiwan with the manufacturing lot code removed from the bottle, sometimes replaced by the importer’s own series number. As a result, traceability is compromised, impacting consumer safety. The Committee proposes extending the prohibition on removing or altering the batch code to include alcoholic products, with the exception of grape wine as individual vineyards may not identify their products by lot code.
be recycled indefinitely. Because of the strict forest policy implemented by the government since 1990, virtually all of the fibers and wood materials used in Taiwan are imported. Yet no regulation has been put in place to check whether the materials come from sustainable certified forests.

In that regard, Taiwan is out of step with international trends, as more and more developed countries have been implementing strict regulations to block timber and fiber products from illegal and non-sustainable sources. Examples are the Lacey Act in the United States; the Forest Law Enforcement, Governance and Trade (FLEGT) in the European Union; and the Australian Illegal Logging Prohibition Act, all of which are designed to support the legal timber trade and deny access to the market for illegally produced wood products. According to studies led by Chiou Chyi-Rong, deputy director of the Taiwan Forest Research Institute and associate professor at the School of Forest and Resources Conservation of National Taiwan University, an estimated 24-31% of the fibers and wood materials imported into Taiwan come from Southeast Asian countries viewed as engaging in severe deforestation practices.

In 2015, Southeast Asian countries including Singapore, Malaysia, Indonesia, and Thailand were greatly impacted by haze caused by intense forest fires from illegal slash-and-burn farming practices on Indonesian islands including Sumatra and Kalimantan. Reportedly some 140,000 people suffered from serious respiratory ailments. In response to the serious haze impact, the Singapore Environment Council (SEC) tightened the rules governing its Singapore Green Label to exclude tissue and paper products made by manufacturers deemed to be associated with the deforestation. Effective January 1, 2017, the SEC will grant Green Label certification only to tissue and paper products that can demonstrate compliance with an FSC third-party audit.

Based on the above considerations, we urge the EPA to continuously expand the scope of its Green Mark to include all virgin-fiber tissue categories certified by globally accepted standards for responsible forest management.

**Suggestion 2: Require greater use of recycled building materials in public construction.**

We encourage the government to require that recycled materials constitute a minimum percentage of the total building materials used in public construction. The current government-procurement regulations, which allow recycled building materials to enjoy a price differential of up to 10% versus conventional materials after all environmental-related tests have been passed, has not been effective in increasing the usage of recycled building materials.

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 economies 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. In Taiwan as well, the notion of a circular economy has been receiving increased attention, and has been included as one of the elements in the government’s 5+2 Industrial Innovation Plan. Where mature technologies exist, requiring the utilization of more recycled building materials in Taiwan’s public construction would be a good start in promoting the objective of achieving a circular economy.

**Suggestion 3: Provide more financial resources for businesses related to sustainable development by expanding the green financing platform.**

The Committee applauds the Taiwanese government’s efforts to encourage more “Green Financing,” and it is gratifying that domestic banks are responding by trying to provide more green loans. These financial resources are much needed to support initiatives in line with sustainable business development.

An active Green Bond market with the potential of reaching US$1 trillion has been formed globally over the years. Aside from the rise in public environmental awareness, the key contributors to the rapid growth of this market have been the availability of incentives to both issuers and investors. The Committee suggests that Taiwan expand its current green financing platform by taking part in this fast-growing Green Bond market. We hope to work with the government to identify the right incentives – whether in the forms of tax policy, regulatory relief, or other non-monetary measures – that may be needed to encourage more issuers and investors to participate in the Green Bond market.

**TAX**

Although Taiwan has long had a well-established tax law system, the dynamic nature of business inevitably means that some tax laws, regulations, and rulings always need to be amended to keep up with the changes. Taiwan has succeeded in updating many of its tax laws and regulations, but there are still others in need of review to bring them up to date and reduce the number of tax disputes between taxpayers and the tax authority. The Tax Committee offers the following proposals to the Ministry of Finance (MOF) for its consideration.

**Suggestion 1: Allow intangible assets to be amortized for tax purposes, regardless of whether they are legally registered.**

In line with economic development, the sale of various intangible assets and rights has become more common and more diverse. Under the provisions of the Income Tax Act...
models, plans, secret formulas, business operating secrets, trademarks, enterprise names, brand names, designs or “Intangible Assets” as: operating rights, copyrights, patents, Non-Arm’s-Length Transfer Pricing defines the term foreign law are excluded.

entity whose head office is located within the territory of the individual living in the territory of the ROC or a business assets not listed under (1) above, where the owner is an enterprise names, brand names, and so on, and (2) intangible assets registered outside of the ROC under ROC law, such as patents, trademarks, operating rights, enterprise names, and other intangible assets; and (2) unregistered rights, trademark rights, operating rights, enterprise names, and special permits – may be recognized as intangible assets such as secret methods or special technology, research and development, marketing networks, sales information, operating information, customer data, channel agencies, and so on are intangible assets.

It is regrettable that in practice the tax authorities often cite Article 60 of the ITA to deny recognition of the value of the intangible assets acquired by the taxpayer and disallow amortization of the amount paid, except for such intangible assets as fall into the categories of operating rights, trademarks, copyrights, patents, and franchises. For the sake of consistency in the interpretation of tax law, compliance with the principle of taxation fairness, and the avoidance of disputes between taxpayer and the tax authorities, the Committee urges the MOF to promulgate a tax ruling to clearly explain the true meaning of Article 60 of the ITA.

Suggestion 2: Review outdated or unreasonable tax regulations.

2.1 Tax assessment on the miscalculation of the tax credit ratio. The imputation system has been introduced in Taiwan to eliminate the double taxation of income, for example income generated at both the corporate and shareholder level. Under this system, shareholders receive imputed tax credits (ITC) paid by the investee companies, and the shareholders can use such credits against their tax liability to prevent double taxation. The ITCs are limited by the tax credit ratio. However, only resident shareholders are entitled to utilize ITCs, whereas for foreign shareholders a 10% surtax is paid by the company. ITCs and the associated limitation by tax credit ratio calculation are irrelevant to foreign shareholders. Nevertheless, in order to comply with Taiwan tax regulations companies need to maintain an ITC account and engage in tax credit ratio calculation upon distribution even if they are 100% owned by foreign shareholders.

If the ratio is miscalculated, resulting in an over-reduction from the ITC account, the tax withheld on the foreign shareholders’ dividends will not be affected since the foreign shareholders are unable to utilize the ITC. Although miscalculation of the tax credit ratio by a company with 100% ownership by foreign shareholders is just a mathematical mistake and does not cause any loss of tax revenue, the current law deems the amount of over-reduction of the ITC to be “tax underpaid” and requires the assessment of an additional “tax” to
We believe that if the TP methodology is reasonable, the arm’s length principle is satisfied.” Transfer pricing adjustments are thus deemed acceptable if the results fall within the arm’s length range. Another pertinent reference is Code Section 1.482-1(a) (3) of the U.S. Treasury Regulations, which states: “If necessary to reflect an arm’s length result, a controlled taxpayer may report on a timely filed U.S. income tax return (including extensions) the results of its controlled transactions based upon prices different from those actually charged.” In other words, the U.S. tax authority permits both downward and upward adjustments reflected on timely filed tax returns.

We therefore suggest that the MOF enact relevant regulations permitting one-time TP adjustments including downward adjustments. Furthermore, we urge the tax authority to treat upward and downward adjustments consistently in accordance with transfer pricing rules so as to bring Taiwan’s tax system more in line with international practice.

TECHNOLOGY

The Technology Committee continues to focus on encouraging the adoption of diverse, unique and innovative technologies that build on the existing solid manufacturing base Taiwan has successfully established.

In the process of examining the main challenges and opportunities in Taiwan’s technology industry, we outlined several key areas we believe are necessary to maintain Taiwan’s technological leadership in the region.

These issues and suggestions are outlined as follows.

**Suggestion 1: Enhance Taiwan’s start-up ecosystem and promote innovative technologies.**

Taiwan should continue to focus on developing and adapting diverse, innovative cutting-edge technologies to add on to its strong existing manufacturing base.

As technologies continue to shift from devices to content and software, it is necessary more 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 as well as to encourage local companies to adopt a less risk-averse approach.

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 National Development Council and other government agencies to promote startups, including the creation of various venture capital funds, support for several startup accelerators, and establishment of Taiwan Startup Stadium.
The committee would also like to recognize the Minister of Labor for its recent measures to relax restrictions on the hiring of foreigners by Taiwan’s technology firms.

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. Taiwan 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.

b. Attract, cultivate, and retain talent. Having the right talent is the key to assembling the global knowledge and local technical skills needed to build Taiwan as a regional high-tech hub. This direction can be furthered by adopting open and flexible employment policies, further relaxing immigration policies, and
strengthening higher education systems.

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 companies and startups.

**Suggestion 2: Adjust workforce regulations with an eye to maintaining the competitiveness of Taiwan’s technology industries.**

The evolution of the internet, cloud computing, and mobile applications, coupled with the disruptive effect of innovative business models, has radically changed the operating model of technology companies, increasing the need for diversity and flexibility in the use of human capital. Unfortunately, current or proposed workforce regulations in Taiwan, such as the Labor Standards Act, draft of the Protection of Dispatch Workers Act, and the regulations governing fixed-term labor contracts, not only deprive business of that needed flexibility, but also create an unnecessary burden for employees. These regulations are aimed at the industrial conditions of the past and have failed to keep up to date with the operational practices of the technology and service sectors that Taiwan must depend on for its future economic vitality.

The authorities need to take into account that Taiwan's crucial technology industry is suffering from a shortage of professional talent. The recruitment of foreign talent is hindered by various regulations, while domestic talent is not motivated to seek employment within Taiwan due to the small market size, low salaries, and limited opportunity for career growth.

The special characteristics of the global technology sector – especially the need for cross-border collaboration across widespread supply chains, as well as short life cycles that place a premium on constant research and innovation – make for a very different pace and style in the working environment compared with traditional industries. For companies operating in the knowledge-based economy that inevitably will represent Taiwan's future, many of the current regulations affecting the labor force are very difficult to implement.

**Recommendations:**

1. **Allow more flexible working time and eliminate attendance records for technology industries.** The Labor Standards Act requires that “Employers shall prepare and maintain worker attendance records for five years.” This requirement could be valid for workers on a manufacturing production line, but is onerous and inappropriate for knowledge workers in the technology sector. For example, many software development tools are placed in the “cloud” so that R&D activities can be conducted anytime and anywhere. Thanks to cloud technology, the office is no longer the only – or often even the main – place of work.

Further, creative ideas can occur at any time, and meetings and discussions regarding R&D, marketing and sales, procurement, quality control, etc. frequently occur among customers, suppliers, or partners located in several different time zones. Employees can decide when and where to join the teleconference without having to sit in the office. Tech companies commonly measure performance through a results-oriented Management-by-Objective (MBO) approach, and the use of employee self-management schemes have become a trend, including flexible working time and working location.

The Ministry of Labor has sought to provide some level of flexibility for “field workers.” Its “Guidelines for the Calculation of the Working Hours for Field Workers” apply to journalists, salespersons, professional drivers, and workers in the electronics communication industries. Extending this category to workers in the technology sector is not a solution. Employees in the technology sector are not easily classified as “office workers” or “field workers,” and it would be a major burden for employees to record and managers to approve the amount of time worked when the time is so irregular and subject to change.

2. **Loosen regulations on fixed-term employment contracts.** Suggestion 1-d above cites the difficulties that restrictions on fixed-term employment contracts pose for startups. Similar problems exist in the tech sector more generally. Due to Taiwan’s limited market size and scarce technological resources, both local and multinational companies need to leverage innovative applications and emerging technologies from abroad. Because technology evolves so rapidly, making for a very short knowledge cycle, companies in search of growth momentum rely heavily on talent recruitment. Experts such as systems architects, data scientists, and AI algorithmists are critical to the success of a project. These experts are normally scarce resources to be recruited externally. Once the architecture or algorithm is defined, the system developers will follow up with the development work and these experts are released to other projects elsewhere. Thus fixed-term relationships are common practice in the tech industry for recruiting labor with special know-how lacking in the regular team. The length of the fixed term depends on the project needs, but for a complex project, one year – the maximum contract period under current regulations – is not sufficient.

Although companies may apply for special approval for an extension, the application process is time-consuming.
and lacks clear standards regarding the length of the extension. In order to fulfill the technology sector’s needs for flexible and diversified human capital, the Committee suggests that extensions to fixed-term contracts be allowed for an additional two years beyond the regular term.

3. Revise the proposed draft of the Protection of Dispatch Workers Act. In recent years the government has sought to spur growth by encouraging innovation among technology companies and acceleration of the incubation of new start-ups. 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 law caps the employment of dispatch labor at 3% of a company’s total workforce. Micro start-ups normally cannot afford to maintain a large headcount, and so often turn to dispatched worker to handle non-core activities. The 3% cap forces employers to have core employees handle non-core activities, and at the same time eliminates job opportunities for dispatched workers in emerging start-ups. The 3% cap also limits the speed with which innovation can be implemented.

In many countries the percentage of dispatch labor 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 would negatively impact the technology sector in term of flexibility and the speed of innovation, 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 “Government Chief Information Officer Organization Act.”

Despite the importance of IT development, the government has yet to establish an agency to take charge of integrating national IT development strategies. In contrast, nearby countries in Southeast Asia have set up high-level departments to oversee the strategic direction of national IT advancement and support industry development.

Singapore: ICT development in the public sector is being handled by GovTech and The Smart Nation and Digital Government Office (SNDGO), both within the Prime Minister’s Office and together known as the Smart Nation and Digital Government Group (SNDGG). The Group began operations on May 1. In the private sector, the Infocomm Media Development Authority, a statutory board under the Ministry of Communications & Information, is responsible for regulating and developing the local ICT industry.

Malaysia: Two agencies under the Ministry of Science & Technology are mainly responsible for R&D activities – MIMOS, the National R&D Centre in ICT, and Cybersecurity Malaysia, which focuses on cybersecurity developments. In addition, MDeC, the Malaysia Digital Economy Corp. Sdn. Bhd., is a government-owned enterprise responsible for promoting Malaysia’s digital economy.

Thailand: The recently formed Ministry of Digital Economy and Society (previously called the Ministry of Information Communications Technology) assumes the responsibilities for the MICIT’s former agencies, the National Statistics Office, Software Industry Promotion Agency, Electronic Transactions Development Agency, Thai National Meteorological Department, and Thailand Post, as well as oversight of state-owned telcos TOT and CAT Telecom.

Indonesia: KEMKOINFO, the Ministry of Communication and Information Technology, is responsible for communication and information policy and regulation in Indonesia.

Philippines: The Department of Information & Communications Technology (DICT), established in June 2016, is the primary policy, planning, coordinating, implementing, and administrative entity of the executive branch of the government. It is responsible for planning, developing, and promoting the national ICT development agenda.

Vietnam: The scope of responsibility of the Ministry of Information and Communications includes information technology.

Elsewhere in Asia, South Korea has set up a Ministry of Science, ICT and Future Planning, and China has established 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 makes it difficult to coordinate relevant policies and programs across different government departments.

Private-sector IT service providers are also affected by the absence of a central authority. 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.

A bill to establish an office of the Government Chief Information Officer (CIO), which would perform many of the same functions as the above-mentioned departments in countries around the region, is currently before the Legislative Yuan. To remove the obstacles hindering the growth of Taiwan’s IT industry and regain IT-sector competitiveness to support the government 5+2 initiative, we urge the legislative to pass the draft “Government Chief Information Officer (CIO) Organization Act” 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 its digital transformation via 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. And through the government’s open-data policy, adoption of a public cloud could help Taiwan increase its global visibility. Open data can serve to attract global talent and organizations to develop innovative new services and business opportunities to Taiwan’s benefit.

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 shown in the accompanying chart 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>
</tr>
<tr>
<td>Level 2</td>
<td>Data restricted by default and shared only with select individuals inside government on a strict “need to know” basis</td>
<td>Sensitive materials with restricted uses, including law enforcement investigations, sensitive personally identifiable information (PII), and restricted health information</td>
<td>Substantial</td>
<td>Information is suitable for government cloud, or for public cloud but only subject to robust security controls</td>
</tr>
<tr>
<td>Level 3</td>
<td>Data that can be shared within government by default, but is rarely shared outside of government</td>
<td>Day-to-day government data, such as non-sensitive PII (e.g., driver’s license application), routine contracting and economic data, etc.</td>
<td>Large</td>
<td>Suitable for public cloud; some security controls may be appropriate</td>
</tr>
<tr>
<td>Level 4</td>
<td>Data sets without source information, viewable only</td>
<td>Data that has been anonymized, or otherwise de-sensitized, and provided as data sets for public analysis (e.g., anonymized public health or tax records)</td>
<td>Large</td>
<td>Suitable for public cloud; robust security controls on the underlying data but minimal controls on anonymized datasets</td>
</tr>
<tr>
<td>Level 5</td>
<td>Publicly available data, with no restrictions on use</td>
<td>Data available to the public generally, including government-published data such as bus schedules and weather data</td>
<td>Very large</td>
<td>Suitable for public cloud</td>
</tr>
</tbody>
</table>
By adopting a data classification and governance framework that assesses data storage from a security and technical perspective, the government will be well-positioned to take advantage of cloud technologies. Classifying data according to these needs, and with an understanding of the technical solutions that meet those needs, will help government quickly transition into new forms of data storage, including cloud services.

The emerging international consensus is that legislation should focus on establishing a requirement that government ministries or agencies develop formal policies and practices to safeguard government data, including highlighting the need for special handling of the government’s most sensitive national security-related information. But rather than legislating the specific data classification and governance practices, lawmakers should defer to the expertise of the government agencies or ministries that already have established competence in safeguarding government data. Consistent with such a mandate from lawmakers, agencies and ministries should develop a clear, actionable, and holistic policy to govern their data in the cloud era, one that both leverages the benefits of the cloud while ensuring special protections are given to the most sensitive 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.

Following release of the 2016 Taiwan White Paper, in which the Committee made the same suggestion, the government expressed its intention to engage in data classification, but there has yet to be any solid progress. We look forward to seeing concrete headway in the coming months.

**Suggestion 5: Clearly list and define the scope of critical infrastructure in the Cybersecurity Management Act.**

On April 27, 2017 the Executive Yuan approved a draft of the Cybersecurity Management Act and submitted it to the Legislative Yuan for review. The bill subjects both government agencies and “non-public sector entities” to cybersecurity requirements to be defined and mandated by the executive branch. The language of the bill, however, is quite vague with regard to the types of “non-public sector entities” to which these requirements might apply. Article 2 defines “non-public sector entities” as those including critical infrastructure providers, state-owned enterprises, and legal persons established with funds donated by the government. However, according to the same article as announced by the Executive Yuan, “critical infrastructure” refers to assets, systems or networks – either physical or virtual – that, if and when their operations cease and/or if and when their performance levels are reduced, stand to impact national security, social and public interests, the lives of citizens and/or economic activities.

A sweeping definition such as this potentially grants the executive branch carte blanche in placing a very wide array of private businesses under the requirements of the Cybersecurity Management Act. Among other things, the bill also grants the government the authority to conduct on-site inspections on non-public sector entities without warrants, citing a number of legal instruments in other jurisdictions as reference, including the EU’s Directive on Security of Network and Information Systems (NIS Directive) and Japan’s Cybersecurity Basic Act. Crucially, the Taiwanese draft unambiguously states that non-public sector entities may not refuse entry to government officials from both the central and local levels. However, the NIS Directive clearly stipulates in its preamble that government agencies are to take a light-touch, ex-post approach to cybersecurity regulation, and in Annex II provides a relatively clear definition of providers of “essential services” (the EU counterpart of critical infrastructure providers). For its part, Japan’s Cybersecurity Basic Act does not grant the executive branch of government the authority to inspect “non-public sector entities,” nor does it make mandatory requirements of “non-public sector entities.” Japan’s Cybersecurity Basic Act states that the promotion of cybersecurity policies are required to be carried out with due consideration to avoid wrongly impinging upon people’s rights. The Technology Committee urges the Executive Yuan to clearly define the scope of critical infrastructure in the form of a list, in order to ensure that the rights of companies in Taiwan are not impinged upon, and to ensure an unambiguous point of reference for compliance with the prospective regulations.

**TELECOMMUNICATIONS & MEDIA**

The Committee appreciates the recent efforts by the National Communications Commission (NCC) and Ministry of Transportation and Communications (MOTC) to support development of the telecommunications and media sectors, from the release of 4G spectrum to the creation of an environment conducive to digital convergence and competition in Taiwan’s telecommunications industry. However, in light of changes in the competitive landscape due to the growth of online media, we encourage the Taiwan government to move in the direction of rate deregulation for the telecommunications industry. As discussed below, we also suggest amending the Copyright Law to protect intellectual property rights when violators are offshore websites.
Suggestion 1: Amend the Copyright Act to enable injunctions against infringing offshore websites.

Rapid developments in digital technology have substantially impacted the ways in which copyrighted materials are reproduced and distributed. As a result, cases of online copyright infringement have become more prevalent in Taiwan over the past few years, particularly infringements by websites operated and hosted outside of Taiwan (hereinafter referred to as the “target websites”).

If an infringing website is located in Taiwan, it is easy for copyright owners to seek legal remedies through criminal and/or civil procedures. For a criminal case, the prosecutor can easily identify and bring charges against the offender. The copyright owner may also pursue a remedy through civil procedure – first filing for a preliminary injunction to stop the infringement and then filing a lawsuit against the owner of the target website to seek compensation. When the website is located outside Taiwan, however, the anonymity of the internet makes it impossible for the prosecutor to identify the offender, and even more to the point, the prosecutor has no right to investigate outside the territory of Taiwan.

Pursuing a civil remedy is equally impossible, as the copyright owner also has no way to identify the owner of the target website. Therefore, the defendant’s name and personal information cannot be listed in the filing brief or the defendant served with papers as required by the Civil Procedure Act.

Further, if the copyright owner wishes to seek a preliminary injunction to stop the target site’s continuing infringement before a final judgment is rendered, which may take a long time, the court will usually order the copyright owner to pledge a bond for the execution of the court order. The financial burden to the copyright owner of doing so is heavy, as the amount of the bond is usually quite high, and the money will be returned to the copyright owner only if he or she wins the case or the defendant gives consent.

To resolve this issue, we propose adding an Article 84-1 to the Copyright Law stating that when a copyright owner wishes to file for a preliminary injunction against a target website but cannot identify the owner of the website, it is sufficient for the IP address and/or domain name of the website to be listed in the brief. Also, if the copyright owner pledges to the court that he/she never licensed the target website, it should be deemed that the copyright owner has fulfilled the duty of providing an explanation and shall be exempt from pledging a bond for execution of the court order. If there is an email address for the target website, the brief and related notice should be deemed duly served when emailed to that address. If there is no email address, all documents should be served by constructive notice – that is, posted in the court bulletin, according to Articles 149 to 153 of the Civil Procedure Law.

Suggestion 2: Drop the proposed tiered pricing scheme for cable TV basic pay channels as unsuitable.

On July 3, 2013, the National Communications Commission (NCC) announced plans to implement a tiered pricing scheme for cable TV services with the goal of offering more channel options to users. The Committee would like to call attention to the need for such a scheme to be both explicitly grounded in law and also determined by market forces. The reasons are as follows:

A. Authorization of the pricing scheme is not clearly defined by law. According to Article 44 of the Cable Radio and Television Act, which was promulgated on January 6, 2016 after passage by the Legislative Yuan on December 18, 2015, “Cable system operators shall report the subscription fees to special municipality or county (city) governments within a month after the 1st of August every year. The special municipality or county (city) government will examine it in accordance with the standards of service fees enacted by the central regulatory agency and then make an announcement accordingly.” The article does not authorize the NCC to be involved in or take charge of tiered pricing schemes for cable TV services. The NCC should therefore avoid direct involvement in stipulating the basic channels or types of channels to be offered by cable providers, as well as the applicable rates, review procedures, and other requirements.

Despite lacking the aforementioned authorization to act as the competent authority for planning and regulating a tiered pricing scheme for cable TV services, the NCC in 2016 still proposed such a scheme, consisting of five service plans. Although some local government officials, cable system operators, and channel operators many times voiced their opinions about the scheme at NCC-organized public hearings, their views did not take into consideration the potential impact on related parties, which besides subscribers, cable system operators, and channel operators also include production houses of local programming and vendors on both ends of the supply chain.

Taking channel/content providers as an example, advertising revenue and channel distribution revenue are the two major profit sources. Any change in the existing basic price scheme will dramatically affect profitability, with a direct impact on future investment willingness or even the continuation of current local production activities.

The NCC has stated that the scheme will “enable the cable TV market to establish a brand-new operating and pricing model in preparation for the trend of four-in-one digital streaming (i.e. data, audio, video, and mobile),” as well as “allow for more operational flexibility in
the industry in hopes of better growth” and enable subscribers to “enjoy better content and more options of TV programs.”

Yet experts have expressed serious concerns and doubts as to whether the NCC’s expectations can in fact be met, citing the absence of a comprehensive impact assessment as the basis for the NCC’s policy making. We therefore suggest that the tiered pricing mechanism be temporarily delayed until a proper legal basis is established and until the NCC has filed a comprehensive industry impact report.

B. The government should avoid involvement in determining pricing, as fee collection rules for all audio-visual cable systems/platforms should be determined by their operators. Today’s developing audio-visual technologies are provided on various platforms, including the internet, IPTV, apps, and Over-the-Top (OTT) services. Among them, OTT in particular offers more viewing options and affects audience viewing habits with diverse programming and flexible fee collection models. Despite the fierce competition between the operators of such platforms and cable providers, the authority has not set forth rules on the management and control of OTT services. Instead, the government has attempted to regulate pricing, which should be determined by audio-visual content providers, according to their operating models and revenues. This issue has led to unfair competition within the audio-visual industry.

A sound market where channel operators co-exist relies on fair competition, but the authority’s involvement in rate setting for cable TV services may cause the competition to be unfair. In today’s digital age, the ever-evolving technologies used in cable TV systems have transformed the industry’s service models and working methods. Therefore, it is neither necessary nor reasonable to regulate new service models by applying old practices intended for analog channels.

In conclusion, there is no need to establish a tiered pricing scheme for basic cable TV channels, which are among the products and services offered by operators of digital cable channels. To stay competitive against emerging platforms and media companies, operators need to plan and offer other products and services – such as channels in combination with app-based content or subscription video-on-demand (SVOD) in combination with OTT services. The cable system is just one of today’s diversified audio-visual platforms, and cable system operators have been working with providers of IPTV and app-based or OTT services to co-launch a wide variety of audio-visual products. In keeping with the spirit of fair competition under the Fair Trade Act, the competent authority should transfer the right to set pricing to cable TV providers as well as the providers of IPTV, OTT, and other new services. The pricing rates need to be determined by the market itself without being regulated by the government.

Suggestion 3: Remove cable TV rate regulation.

The current rate regulations for cable TV in Taiwan were introduced in 1990 when the cable TV industry dominated the video visual service market in each area of operation. The rationale for the rate regulation was to protect consumer rights as the consumer had no choice regarding the service. Over the years the market has changed dramatically, however, and now multiple video visual services – cable TV, IPTV, OTT, etc. – are available to consumers, and cable TV service is no longer dominant. As of the end of 2016, there were about 5.2 million cable TV subscribers in Taiwan and over 1.33 million IPTV subscribers, taking more than 20% of the video visual service market, as well as an unknown number of OTT service subscribers.

In the United States, if effective competition exists among video visual service providers, there is no need for rate regulation as the consumer can choose among various types of service. Based on the same consideration, the NCC should revisit the need for rate regulation, and lift such regulation if it concludes that effective competition now exists among the video visual service providers.

Also set in 1990 was a rate cap for cable TV service of NTS$600 per month per household. The price cap has never been adjusted, although the consumer price index has risen substantially since 1990. The unreasonable level of the cap has hindered the development of the cable TV industry, satellite operators, and content providers. We strongly suggest that NCC either remove the rate cap entirely or raise the level to reflect the increase in the price index over the past 27 years.

Further, the cable TV fees are charged by household rather than set-top box (STB). The price structure is unfair to lower-income households. A rich family with 10 TVs at home pays the same charge as a poor family with only one TV set, which amounts to the poor family subsidizing the rich family for cable TV service. As Taiwan will reach 100% digital TV penetration by the end of 2018, it is easy for cable TV operators to shift to charging for service per STB. In the interest of social fairness, we believe the NCC should revise the cable TV tariff regulations to allow cable TV operators to charge by STB instead of by household.

TRANSPORTATION

As the current Cabinet begins its second year in office, this Committee looks forward to seeing continuity of policy execution by the Ministry of Transportation and Communications (MOTC) and the Ministry of Finance
(MOF), the two ministries that our industries work with most closely. We are also paying close attention to the new Administrative Procedure Act (APA) practices announced by the Executive Yuan, such as the 60-day notice and comment period for new regulations and new legislation impacting international trade. AmCham Taipei is monitoring the degree to which various ministries are adhering to this policy, which we view as critically important given that most regulations have a long-term effect.

Following are recommendations for what we consider to be the most pressing issues facing our sector.

**Suggestion 1: Build an effective communication platform to ensure transparency and efficiency in customs clearance regulations.**

In this Committee’s position paper in the 2016 Taiwan White Paper, we called for establishment of an effective communication platform to ensure transparency and efficiency in dealing with customs clearance issues. Our experience in recent months shows that this issue has yet to be effectively addressed, despite the welcome new measures by the Executive Yuan designed to improve the notice and comment process. Hopefully the shortcomings reflect the newness of the 60-day initiative, and improvements will occur given more time.

The recent difficulties relate to a bill which the Legislative Yuan passed in December last year to amend the Customs Clearance Law so as to tighten control over the shipment of goods considered to be frequently imported into Taiwan by a given consignee (see Suggestion 2.1 below). Before submission of the bill to the legislature, there was little opportunity for interchange between Customs/MOF and relevant business sectors regarding how the provision could be implemented without damaging trade efficiency and deviating from the spirit of fair trade as stated in the World Customs Organization (WCO) guidelines. Within the 60-day notification period, no public hearings were conducted – just a few meetings to which only selected local industry associations were invited. Following enactment of the law, compliance is likely to present a number of practical difficulties for the business sector, including likely significant cost increases.

We strongly recommend that any future changes in customs regulations and legislation follow the APA principle by collecting stakeholders’ opinions and comments prior to any decisions. Considering the importance of the Customs Administration for trade facilitation and border control, the establishment and maintenance of a healthy communication channel with stakeholders is extremely crucial.

**Suggestion 2: Ensure reasonable customs procedures for e-commerce goods.**

*2.1 E-commerce tax collection.* The Legislative Yuan recently passed new measures targeting *de minimis* shipments [shipments of minimal value for which no taxes or duties are normally collected] such as are often conducted through e-commerce. These measures entailed:

- Amendment to the Customs Law canceling the Value-Added-Tax (VAT) exemption for *de minimis* shipments if the consignee is deemed a “frequent importer,” defined as receiving more than six shipments within six months.
- Amendment to the Business Tax Law reducing the tax exemption threshold for imported consignments from NT$3,000 (US$95) to NT$2,000 (US$63) and imposing taxes on cross-border e-commerce platforms.

Enforcement of both laws is pending while revisions are made to relevant customs regulations, which will determine specific tax collection and clearance measures. We urge the government to adhere to the following principles in setting those implementation details:

- Equal treatment should be applied to express and postal shipments.
- While VAT will be collected on the goods, no duty should be imposed on *de minimis* shipments in accordance with WCO and WTO principles.
- Customs should maintain a simplified clearance system for low-value shipments, including both non-dutiable (*de minimis*) and dutiable shipments.

*2.2 All-in-one national e-commerce platform bringing together the marketplaces, logistics, and payment services.* Customs is leading the development of a separate clearance channel for e-commerce goods, which is expected to create efficiencies for both Customs and participating businesses. As it develops this channel, we urge the authorities to pay attention to the following principles:

- The system should support open standards, free competition, and simple registration for importers, exporters, and logistics providers. Currently, only companies with a presence in Taiwan can register in the system.
- The government should continue to promote trade facilitation especially for business-to-business transactions, which remain a key driver of the Taiwanese economy.

Our committee recognizes that new challenges have emerged with the growth of cross-border e-commerce. We are committed to collaborating with the border agencies to address surges in volume, share best practices for tax collection and solutions for addressing specific risks, and educate the new online trading community. At the same time, we urge the government to continue its efforts to simplify trade for our business customers, many of whom are now experiencing increased complexity of the rules.
Suggestion 3: End the requirement for separate import and export processing in air cargo and express terminals.

Taiwan regulations require air cargo and express terminals to physically separate export and import processes, a constraint that reduces productivity and prevents business operators from making optimum utilization of warehouse space.

The Committee requests that Taiwan Customs change the regulations to allow terminal operators to manage their own processing without requiring the physical separation of imports and exports. Instead, Customs can maintain necessary controls through the IT system and random auditing, while enabling operators to improve space utilization and adopt modern warehouse management methods. No other developed country is still imposing the kind of restrictions on the operation of warehouse space that Taiwan Customs continues to have in effect.

Suggestion 4: Lift the requirement for commercial automobile businesses to rent outside parking spaces.

According to the Highway Act, the “Approval Rules for Commercial Automobile Businesses” and its attachment “Parking Space Rules for Commercial Automobile Businesses,” every commercial automotive business – including car-rental companies and express delivery enterprises, among others – must show proof of having contracted for parking spaces for at least one-eighth of their total fleet of vehicles. Due to the difficulty of obtaining sufficient legal parking spaces in metropolitan areas, it is allowed to arrange for such space outside the city where the business operations take place.

As a result, many companies are forced to rent and provide certification for external parking spaces that they never use. Sometimes they may not even know the exact location of the lot. This system not only fails in the intended objective of ameliorating the problem of urban parking, but also adds unnecessarily to companies’ operating expenses. The practice serves the interest only of the providers and brokers for authorized parking spaces.

The Committee urges the government to revise the Highway Law and associated regulations to remove this onerous restriction. Resolving this issue will greatly improve the investment climate for such businesses as express couriers, car rental companies, and other operations involving a large fleet of vehicles.

TRAVEL AND TOURISM

The Committee would like to express our sincere appreciation to the Tourism Bureau for its willingness to engage with our members and to understand our concerns on various issues in Taiwan’s travel and tourism industry. We are excited to learn that the Taiwan government has introduced “Tourism 2020 – Sustainable Tourism Development Strategies for Taiwan,” leveraging Taiwan’s unique local tourism resources and advantages and aiming to enhance Taiwan’s international competitiveness. The Committee would like to offer our support to the Tourism Bureau in the implementation of these strategies.

This year, the Committee offers three suggestions on issues impacting the development of Taiwan’s tourism industry. In addition, we believe that if the Taiwan government wishes to transform Taiwan into a major tourist destination in Asia, it is imperative for the tourism authority to be elevated to a higher level so as to expand resources available for tourism promotion. We understand that the government’s restructuring plan for the Ministry of Transportation and Communications (MOTC) is still awaiting review and approval by the Legislative Yuan. We call on the Executive Yuan and Legislative Yuan to give serious consideration to upgrading the Tourism Bureau to a ministry-level agency.

The Committee looks forward to continuing discussions with the Tourism Bureau and other relevant government agencies to find ways to bring improvements to Taiwan’s tourism market.

Suggestion 1: Apply international best practices to the refund policy for hotel bookings.

The Tourism Bureau recently amended the “Mandatory and Prohibitory Provisions of Standard Contracts for Tourist Hotels Enterprises and Hotel Enterprises and Home Stays’ Individual Travelers’ Room Booking.” We understand that the goal of these amendments is to protect customers’ rights when they cancel their booking within a certain number of days. However, since the operational practices of international chain hotels, local hotels, and individuals doing private business are quite different, a number of issues arise when all must follow the same rules.

In line with worldwide practice, international chain hotels do not charge a deposit and only impose a no-show charge of one night’s stay when the cancellation notice is made within 24 hours of the check-in time. This practice is more favorable to customers than that of local hotels or private proprietors. Only when international hotels launch early-bird packages to promote bookings during low seasons do they generally require non-refundable pre-payment in full. If some customers demand refunds under such early-bird packages, it would be unfair to other customers who paid the full rate and would also impact the hotels’ implementation of their
global pricing strategies.

When airlines provide special low-price offers, they always impose certain limitations, such as a non-refundable policy or extra fees in the case of cancellation or a change in travel dates. As long as customers are made aware of and agree to the terms and conditions when they make the booking, then those terms and conditions should apply. Pricing is always subject to demand and supply.

International hotels engage in the same practice as airlines. Several different kinds of products may be offered at the same time, and customers have the right to select which one they consider the most suitable for them in terms of the conditions and price. The products of international chain hotels are published on their websites, available for sale to customers worldwide. If hotels in Taiwan deviate from the refund policy published on the website for local customers, it will be unfair to foreign customers and discourage their travel to Taiwan.

If a hotel room is not occupied on the night for which it is booked, the business is lost. And just as air tickets are much more expensive during winter and summer vacation times, the price of hotel rooms is also subject to supply and demand. On special dates, for example New Year’s Eve or the Chinese New Year period, the price is higher – and a charge equal to one night’s stay is imposed if the cancellation is made within 30 days of the expected arrival. If hotels must follow current terms to refund the entire deposit if the cancellation is made within 14 days of the check-in date, then hotels will lose substantial potential revenue since it is difficult to find another customer within such a short period, as customers usually make vacation plans for such special dates six months or even a year in advance.

In addition, we would like to note that in the United States, European Union, Japan and many Southeast Asia countries, hotels follow the international standard practice whereby there is no obligation for hotels to refund the booking providing the terms and conditions of non-refundable package are clearly advertised and intentionally selected by the guests.

We ask that the Tourism Bureau consider the following suggestions to further revise the “Mandatory and Prohibitory Provisions of Standard Contracts for Tourist Hotels Enterprises and Home Enterprises and Home Stay’s Individual Travelers’ Room Booking”:

1. Allow non-refundable deposits under certain scenarios, such as (1) Early Bird Promotions, and (2) special holiday packages. These are usually the lowest rates and carry certain stipulations. The customer has chosen them from among the different room packages with different terms and pricing, and so should be fully aware of the consequences of that choice. This approach is standard practice for international hotels, and we should not be asked to treat foreign and local customers differently.

2. Remove the unreasonable and impractical rule that the refund be used as a deposit for future stays. It is unfair to other guests who are paying higher rates if lower-paying guests receive the same concessions.

3. Revise the standard contract template regarding non-refundable deposits in order to promote international tourism in Taiwan by aligning with global business practice. At the very least, hotels should not be penalized for following international policy and instead should be given the flexibility to make their own arrangements with customers when special cases arise.

Suggestion 2: Re-strategize and rebrand Taiwan’s tourism promotion efforts.

Taiwan has seen a sharp decrease in inbound mainland Chinese tourists since 2016, and it is likely that this trend will continue. In response, the Taiwan government has announced tourism promotional strategies to diversify target markets to areas including Japan, Korea, and Southeast and South Asia. Given these new strategies and new target markets, rebranding of Taiwan’s tourism promotional effort is necessary and timely. The continuing use of “Heart of Asia” to brand Taiwan to these markets is both outdated and impractical as most Asian countries consider themselves the heart of Asia as well. More effective ways must be found to reach key markets with promotional messages that resonate with them and efficiently reflect Taiwan’s core values.

Taiwan is both modern and traditional. Its uniqueness is the comfort and convenience that tourists can find in modern and efficient facilities, combined with the friendliness and ethnic traditions reflected in all aspects of life. Taiwan is a destination with unusual diversity, with a blend of Hokien, Hakka, aboriginal, mainland Chinese, and Japanese cultures. Taiwan’s attractiveness lies in its beautiful mountains, seacoasts, and other natural scenery; the friendliness of its people; delicious snacks; pandas in one of Asia’s finest zoos; historic railways; incredible bikeways and hiking trails; phenomenal scuba diving; amazing temples (both old and new); and the world’s largest collection of Chinese antiquities. Excellent transportation options, including the Taipei MRT, high-speed railroad, special tourist trains and buses, and extensive freeway network, also make it easy and convenient to get around. Best of all, Taiwan is free of the street crime, religious tensions, and political instability that beset some other Asian tourist destinations.

Adapting Taiwan’s strengths into key tourism promotional messaging and slogans is the main challenge. It is a task that needs to be assigned to branding experts who have a thorough understanding of Taiwan and its attractions, and the professional skills and experience to reach an international audience with an all-new image of Taiwan as a
desirable tourist destination.

The widespread perception of the current tourism branding is that it is old, unimaginative, and boring. We recommend taking the following into consideration when planning a new branding campaign:

1. Use a bold, positive, and forward-looking slogan to create a dynamic and inspirational message. An example might be: “Taiwan: Never felt so good.”
2. Appoint internationally recognized superstars as brand ambassadors. With all due respect to famous Taiwanese stars, none of them enjoys worldwide celebrity status.
3. Use universally recognized pop music as the background song for the campaign – for example, Justin Timberlake’s “Love Never Felt So Good.”
4. Embark on a massive promotional campaign designed to increase the tourism sector’s contribution to GDP (direct and indirect) from the current 3.5% to 7% in 2020, and from 10 million tourists in 2016 to 13 million in 2020.

Suggestion 3: Make Taiwan more welcoming for independent travelers.

Travel and tourism are critical to Taiwan’s economy, but could contribute even more.

In addition to the GDP and traveler numbers cited above, the sector directly and indirectly provides 669,500 jobs – 5.9% of Taiwan’s total employment. The World Travel and Tourism Council (WTTC) expects these numbers to rise by 3.8% in 2017, and by 2027 to reach 814,000 jobs – 7.4% of Taiwan’s total employment. Annual expenditures by foreign visitors are expected to rise from the current NT$542 billion (US$17.8 billion) to over NT$722 billion (US$23.7 billion) by 2027. Still, Taiwan ranks below a number of neighboring countries on most measures in the WTTC report and has significant room for growth; it is in 173rd place out of 185 countries ranked in terms of the long-term growth forecast. Improvement would be directly beneficial to every part of the Taiwanese economy.

In the past, tourists to Taiwan came mainly in groups. While group travel offers some advantages (predictable demand, homogeneous travelers, regular patterns), there are also distinct shortcomings. Many parts of the country went unvisited, and only some enterprises (for example, large hotels) benefited from the business. In addition, the heavy dependence on Chinese traffic left the Taiwan tourism sector vulnerable whenever cross-Strait relations worsened.

Under this scenario, foreign independent travelers (FITs) are becoming ever more important. By making increased efforts to welcome them, Taiwan can advance against international competition. It is important to recognize, however, that addressing the needs of independent travelers is harder than meeting the needs of groups because FITs are more diverse. Some of the top issues facing FITs to Taiwan:

- Internet access. FITs are highly reliant on the internet, yet obtaining SIM cards and data packages in order to connect online can be quite difficult
- Easy access to international and innovative financial services
- Language barriers. Many independent travelers speak no Chinese, yet many of the people they interact with in Taiwan speak no other language
- Logistical difficulties in planning trips outside of Taipei
- Lack of information. FITs are difficult to reach in person as they may not come to tourism offices or attend travel fairs, yet much of the Tourism Bureau’s marketing depends on in-person distribution of brochures and coupons.
- Taiwan’s lack of international best practices in many areas.

We recommend the following steps to address these issues:

1. Give travelers more free choice by offering international best practices, including non-refundable room rates and short-term rentals by private hosts, and provide world-class training for tourism personnel.
2. Make internet access easier for foreigners, especially at airports, through convenient and cheap SIM cards and data packages.
3. Ensure that airports, taxis, and public transportation are all accessible with credit cards and other new, cashless payment methods.
4. Teach English more widely to help make Taiwan bilingual. Install bilingual signage in all public places and transport services, and offer free translation service by phone, as Korea does.
6. Move from paper to online marketing, and establish cooperation between the Tourism Bureau and online businesses, especially international online travel agencies (OTAs), to help market all accommodation types and all Taiwanese destinations to travelers, in order to bring in visitors from more countries.

Some of these steps can be done quickly; others will take longer. But if Taiwan wants to increase tourism revenues and boost international understanding, it needs to raise its game significantly. The benefits will be well worth the investment.
農化委員會

農化委員會(以下簡稱委員會)首先要感謝行政院農委會動植物防疫檢疫局(以下簡稱檢疫局)、行政院農委會農藥藥物毒物試驗所(以下簡稱藥毒所)及其他各會持續積極地聯查查緝非法農藥，以保障合法業者的權益並確保國人健康。委員會亦高度肯定檢疫局及藥毒所簡化相同有效成分但不同劑型或含量之產品的作物延伸程序，相信此舉將大幅降低廠商申請作物延伸所需之資源並為農友提供更大的便利性。

對於檢疫局強力貫徹劇毒農藥管理之措施，以避免民眾誤用，委員會深表謝意及認同並將全力配合及支持。此外，藥毒所在2016年新社花海節(2016 SIN SHE HUA HAI)設立「守護健康館」，宣導安全用藥並導正民眾對農藥的誤解，委員會也藉此機會向藥毒所致謝並給予高度的讚許。

新農藥登記制度已邁入第7年，在檢疫局及藥毒所積極且悉心的輔導下，各廠商已逐漸上軌道且陸續有新產品完成登記。惟委員會認為有些配套措施若能加以強化，將使新制度更加完善，如儘速建立台灣各種主要作物之病、蟲、草害物的“田間藥效試驗之害物調查方法指引”以加快試驗設計書的審查進度、延長登記資料的保護期以提高新產品登記的投資意願、增加誘因使廠商願意將產品登記在更多的少量作物來解決農友於少量作物的用藥困境。

委員會也對日趨嚴重的抗藥性問題感到憂心，並認為除了加強教育農友外，也應該有法規方面的配套措施，方能有效地減緩抗藥性的發生。此外，藥效報告已列入申請進口殘留容許量之必要要件，卻因未能相對地建立國內使用方法，以致已登記之相同有效成分的相關產品無法合法使用於國內之相同作物，故委員會也期盼主管機關能修改相關法規來解決此一問題。

針對前述所提之問題，委員會之詳細建議如下:

1. 預期在完善的登記制度下，儘快引進更安全且環保的新產品，為消費者、農友及台灣農業創造最大利益，並進一步強化環保及食品安全的維護，確保國人健康。

建議四: 修法將農藥管理機構號碼列為農藥標示之必要項目

由於抗藥性問題日趨嚴重，故建請修改「農藥標示管理辦法」，將農藥作用機制號碼列為農藥標示之必要項目，以方便農友辨別各農藥之作用機制，並進而減緩抗藥性的發生。

建議五: 學校供應膳食應選用基因改良食品

教育部於2015年新訂施行學校衛生法第23條，禁止學校供應膳食使用基因改良(基改)食材及初級加工品之規定，原意在於保障學生之食品安全，但基改食材及初級加工品之規定已與WTO之農業貿易政策及台灣之國際貿易委員會（World Trade Organization, WTO）成員義務，並於世貿組織不一致的情形。

1. 施行涉及國際貿易之法規應通知WTO

台灣為WTO成員國有義務遵守「食品安全檢驗與動植物防疫檢疫措施(sanitary and phytosanitary, SPS)」第7條規範，亦即「成員國應通過其食品安全或動植物防疫檢疫措施」，學校衛生法(第23條)新訂有關學校供應膳食不得使用基改食材與初級加工品之規定係基於基改食品安全考量，且國內所有基改食材來源為進口貿易，台灣政府自應踐行通知SPS委員會之義務。

2. 開除學校衛生法(第23條)有關學校供應膳食禁用基改食材及初級加工品之規定

依據SPS協定第2.2條及第5.1條規定，所有可能影響國際貿易之SPS措施應具有充分科學證據並進行風險評估等依據。在尚未採行上述步驟前，自不宜施行禁止學校供應膳食使用基改食材及初級加工品之規定。基改食材及初級加工品之規定應以科學為基礎，始得用於食品用途，故學校衛生法(第23條)有關學校供應膳食禁用基改食材及初級加工品之規定應予以刪除，並於未來法令及法規制定過程建立科學諮詢與風險評估機制，以觀台灣法規規定基於科學根據之形象。

3. 避免法規加諸進口限制及對國內及進口產品之差別待遇

台灣所有基改食材來源為進口貿易，學校衛生法(第23條)修訂學校供應膳食禁用基改食材及初級加工品之規定，將排除部分進口農產品於學校供應膳食之使用，該作法可能違反「關稅暨貿易總協定(General Agreement on Tariffs and Trade, GATT)」第十一條第1項禁止進口限制，且亦有違GATT第三條第4項禁止差別待遇之規定，故應予以避免。

綜上所述，委員會呼籲主管機關能採納前述之建議，以期在完善的登記制度下，儘快引進更安全且環保的新產品，為消費者、農友及台灣農業創造最大利益，並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

本委員會感謝金融監督管理委員會（「金管會」）為了建立更佳的投資環境及金融商品創新之目的，而於去年確立若干重大目標。本委員會亦肯定金管會推動金融科技與共同基金投資平台及投資當然人才之努力。這些改革和新的政策措施均符合本委員會的期待，且終將使台灣投資人受益。我們樂見更多的創新的監管機制，尤其是投資平台目標，終將使台灣資產管理產業之競爭力和投資人利益。我們樂見更多的投資機會，並為消費者提供更多，更佳的投資選擇。

此外，本委員會亦感謝金管會引進新的基金投資組合（亦即多重資產型基金），並批准國內合購基金（多數資產型基金），並批准合購基金投資平台並達到金融商品創新之目的，而於去年確立若干重大目標。本委員會亦肯定金管會就推動金融科技與共同基金投資平台及培育當地人才，所投注的努力。這些改革和新的政策措施均符合本委員會的期待，且終將使台灣投資人受益。我們樂見更多的投資機會，並為消費者提供更多，更佳的投資選擇。

本會會同金管會合作，共同發展國內基金業務並持續吸引更多本地人才投入業界。證券投資信託及顧問法之修訂，固然會為產業帶來巨大影響，但我們希望此等修正草案能夠藉由提升國內商品的競爭力與作業彈性、確保國內和境外基金處於公平競爭的環境、鬆綁國內商品的投資限制等方式，為台灣的資產管理產業打造更好的規管制度。

同時，本委員會也建議金管會與勞動部就勞退金自選方案之實施進行密切合作。蓋因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，而與「確定提撥制」計劃的宗旨並不一致。金管會目前傾向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。本會委員會呼籲勞動基金運用局採行勞工可依據自己的個人需求及風險偏好選擇退休計劃，無論選擇現行由政府管理且具備最低保證收益的退休金計劃，或者選擇通過自選方案平台依據自己的風險偏好選擇適合自己的投資標的。考慮到持續的低利率環境、台灣嚴重的人口老化問題和勞工對於不同退休計劃之需求，本會委員會強烈建議勞動部盡快落實「確定提撥制自選方案」計劃。

銀行業委員會

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銀行業委員會
《TAIWAN WHITE PAPER • JUNE 2017》

Industry Committees' Priority Issues

Promote market development, and can relax more types of financial products to meet differentiated risks. This will boost Taiwan's financial industry and neighboring financial markets (such as Hong Kong). Taiwan has become an important financial market in Asia.

As a responsible member of the banking industry, this committee will continue to strive for sustainable development and help build Taiwan's banking industry. The committee has introduced many commercial development opportunities. As a responsible member of the financial industry, the committee has been committed to international and regional financial centers, obtaining more business opportunities.

The committee is grateful to the government for its attention to last year's recommendations. Some issues have achieved practical results. The committee expects the government to continue to promote the relaxation of regulations to reduce the impact of global economic uncertainty. The government of Taiwan is committed to financial reform and international and regional financial centers, taking more business opportunities.

The committee suggests that the Financial Supervision Agency continue the loosening of regulations to improve the banking environment. The Financial Supervision Agency has made many regulations to protect investors. The committee suggests that the Financial Supervision Agency continue the loosening of regulations to improve the banking environment. The Financial Supervision Agency has made many regulations to protect investors. The committee suggests that the Financial Supervision Agency continue the loosening of regulations to improve the banking environment. The Financial Supervision Agency has made many regulations to protect investors.
金管會於2016年6月21日公佈之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修正規定中，已將高淨值投資法人得從事避險之主體及該法人持股百分之百之境外子公司，然而目前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中，對高淨值投資法人得從事避險之主體及該法人持股百分之百之境外子公司，銀行仍需根據從事避險之主體之單獨財務報表（不能使用合併財務報表）來判斷其財務狀況是否符合高淨值投資法人之條件。上述之境外子公司倘為該高淨值法人從事避險之主體，因其單獨之財務報表多未能符合高淨值投資法人之條件或甚至無單獨之財務報表，為使法令一致避免混淆，茲建議開放同一合併財務報表內之母公司及子公司，銀行對其財務條件之審核皆可依母公司之合併財務報表為基準。

補充說明：目前法規對高淨值投資法人之資格審查規定，銀行需根據申請人之單獨財務報表（不能使用合併財務報表）來判斷其財務狀況是否符合高淨值投資法人之條件。茲建議開放同一合併財務報表內之母公司及子公司，銀行對其財務條件之審核皆可依母公司之合併財務報表為基準；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，且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，故其專業度應以其母公司作為衡量指標。如此，不但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，且保障國內客戶的投資相關權益，在發展成為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。

3.1 取消外幣計價國際債券發行銀行指定流動量提供者之規定

金管會於2016年6月21日公佈之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修正規定中，已將高淨值投資法人得從事避險之主體及該法人持股百分之百之境外子公司。然而目前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中，對高淨值投資法人得從事避險之主體及該法人持股百分之百之境外子公司，銀行仍需根據從事避險之主體之單獨財務報表（不能使用合併財務報表）來判斷其財務狀況是否符合高淨值投資法人之條件。上述之境外子公司倘為該高淨值法人從事避險之主體，因其單獨之財務報表多未能符合高淨值投資法人之條件或甚至無單獨之財務報表，為使法令一致避免混淆，茲建議開放同一合併財務報表內之母公司及子公司，銀行對其財務條件之審核皆可依母公司之合併財務報表為基準。
人，而该等投资人偏好投资长期（七年以上）之国际债并持有至到期日，而较少在次级市场进行国际债交易之需求。然而，由于前述流动量提供者之规定，造成办理国际债发行之承销商为符合前述规定而需提供次级市场可买回债券之买卖双向报价之法规要求，导致其于国际债发行时需先行认赎回以提供自次级市场交易时所需。此规定增加了承销商之作业成本，反而影响承销商办理一般版国际债（七年以下天期）之发行意愿而无法达到活络国际债次级市场之目的。

本委员会建议取消国际债发行之指定流動量提供者之规定。

3.2 若受前述法规影响，国际债次级市场之流动性之最佳方法，应为减少一般版国际债（多为短天期债券）之发行条件限制（如发行机构可赎回债券），以提升该市场商品种类之多样性，进而能吸引更多之投资者进入市场交易。

有关申报发行一般版国际债券时所需检附之「最近三年度会计师查核之财务报告及查核报告书」，依主管机关要求係指申报当日电本年度之财务报告，而非申报当日或文件编制之时最近三年已发行之财务报告。然实务上，因会计师查核作業时间的關係，多數公司（包括金融机构）之会计师查核之財務报告之公開日多落於2013年3月或4月。由於前述情形，導致每一年度之一月至三月及十二月国际债券发行人皆无法提供符合規定之財務报告以办理债券发行为。本委员会建议主管机关發函说明如发行人於每年度之一月至三月申報發行者，得關於製作「外國發行人於國內發行普通公司債總括申報追補書」、及依「外國發行人募集與發行有價證券處理準則」準用「發行人募集與發行有價證券處理準則」第20條編製公開說明書時，檢附申報當日或文件編制之時「最近三年已發行經會計師查核之財務報告及查核報告書」及前一年度之最近一期之季報，以解决每一年度一至三月（及十二月）因無法检附最近一年度之財務報告而導致无法发行国际债之窘境。

自2013年起，因金融监督管理委员会积极推廣台湾国际板债市，国际板债市近期呈上升趋势；本委员会相信營造外資友善的投资環境能进一步推升台湾国际板债市成长。

为协助外國投資人参与台湾国际板债市，国际清算機構（Euroclear/Clearstream）已於2014年與台灣集中保管機構開立帳戶，外資投資人可透過此途徑参与台湾国际板债市并豁免申请外資身分及指派国内保管机构等要求。然而，因不具競爭性之扣缴税率，此法規開放並未如預期吸引大量外資投資人投入。依据目前国内税制，外資投資人投資台灣國際板債券所产生之利息收益免課徵所得税。
資私募可轉換債券不計入中國大陸投資人(FINIs)30%固定收益投資上限。為鼓勵FINIs投資朝向台灣股票市場而非固定收益市場並避免新台幣投資之 случ事發生，依現行規定，FINIs投資政府債券、貨幣市場工具、特定衍生工具之淨交割金額及權利金、公司債券及無擔保銀行債券之資金，不得超過其淨匯入資本之30%。

本會建議了解以上政策之目的並感謝主管機構在金融市場監管上所持續付出的努力。但我們也想指出，可轉換債券為上市公司之重要籌資工具，也是投資人常見參與資本市場方式。因其票面利率較低，且具有可隨時於存續期間依投資人決定申請轉換成標的公司的股票之特性，可轉換債券在全球大部分市場一般都被歸類為權益投資而非固定收益投資。可轉換債券的條件比股票複雜，其投資者為機構投資人而非個人。

FINIs一直是台灣可轉換債券的主要投資者及重要的流動性提供者；將可轉換債券計入30%固定收益投資的限制可能導致FINIs減少其可轉換債券的投資，並影響可轉換債券於次級市場的流動性。除此之外，影響層面可能波及到新台幣投機之情事發生。

本會委員會建議將可轉換債券不計入FINIs30%固定收益投資上限。

2.3 發展適合外資的首次公開發行∕現金增資競價拍賣系統

根據2016年生效之有價證券競價拍賣新制度，投資人欲參與首次公開發行∕現金增資競價拍賣，需親自至開戶證券商營業處所進行競拍輸入或使用證券商之電子憑證進行。因為外資並非本國居民且線上競拍系統僅為中文版，此新制可能不會造成本國投資人之不便，但卻成為外資參與競拍之障礙。

本會委員會建議外資通過指定證券商代為投標，或建置英文版的競價拍賣平台讓外資從海外直接投標。

三、國際金融業務分公司(OSU)與國際金融業務分行(OSOB)宜採行一致的設立標準以建立跨業公平

金融監督管理委員會於103年2月開放國際金融業務分公司(OSU)設立，外國投資人可以透過OSU購買境外金融商品及服務。截至106年2月，已有17家證券商提供OSU業務，然而未有外國證券商涉入此業務，主要係因經營全照式OSU業務淨值需達新台幣一百億元，其高門檻資本限制構成外國證券商進入此市場之主要障礙。

參考銀行業國際金融業務(OSOB)經濟規模，中央銀行於106年1月開放國際金融業務分行(OSOB)設立，外國投資人可以透過OSOB機構購買境外金融商品及服務。截至106年2月，已有17家證券商提供OSOB業務，然而未有外國證券商涉入此業務，主要係因經營全照式OSOB業務淨值需達新台幣一百億元，其高門檻資本限制限制外國證券商進入此市場之主要障礙。

本會委員會建議鬆綁OSU最低資本法令規定，適用OSOB銀行投資資本計提模式，因為銀行資本計提模式在業務成長下同步有效率管控風險。

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稅義務人給付應扣繳所得且已徵收扣繳稅款者，利用網路

稅務代理及保管銀行等之便利，可減少紙本憑單之流通，保護環境，並增加稅務管理之效率。本委員會於2016年白皮書建議推動扣繳憑單之電子化，並開放稅務代理人得採網路線上查詢其稅務資料。

為推動證券商與保管銀行間外資法人交易交割對帳作業之自動化，集保結算所於2009年曾引領主要保管銀行及台灣證券商會成員進行討論並將集保結算所之法人對帳系統。為此，許多券商及保管銀行皆提升內部作業系統並與集保結算所進行測試。然而證券主管機關並未強制規範，因此券商及保管銀行仍採用電子郵件進行對帳及交易確認，其效率有待提升。為提升外資法人之交易交割對帳流程之效率，本委員會提議主管機關頒發函令規範券商及保管銀行共同採用集保結算所之法人對帳系統。

化學品製造商委員會

化學品製造商樂見並感謝環保署及勞動部跨部會的合作，來推動一套調和及透明的化學品申報及登錄流程。我們更樂見環保署在去年十二月成立毒物及化學物質局，統籌全國化學物質的管理。

但我們持續對於化學物質商業機密保護的揭露及共同登錄機制的不確定性，表達我們的疑慮。因為這些因素，均不利於台灣在化學產業及電子特用化學品的研究及業務發展工作。我們也期望環保署廣納產業界針對毒性化學物質管理辦法修正草案之意見。

GHS化學品全球調和制度第四階段，已於2017年1月1日全面實施，有關在物質安全資料表上面的成份，若屬於健康危害部份，須全面揭露，而此揭露要求已遠超過其他國家的要求，並很有可能造成台灣在化學及電子產業特用化學品的研發及新產品的發展上，造成非常不利的影響。

物質安全資料為保護勞工安全，而非揭露成分。物質總體健

康危害訊息，已完整在健康危害單元詳細描述，揭露配方中單一

成份的危害，不代表物質總體可能形成危害或易造成使用接觸者

無謂恐懼和誤解。

揭露低程度危害之產品成分是否能有益於大眾利益尚是未知

數，但可能造成競爭對手不當使用，損害公司權益及惡性競爭

之可能性。加上申請商業機密保護的程序複雜及檢附文件難以達

成，業界反映極為困難，造成新科技研發及開發困難，對台灣

長遠發展而言，可能造成損害，再者，如非適當方式保護商業機

密，可能會造成台化工料研發及市場競爭的負面影響，同時可能

成貿易壁壘，因應商業機密的疑慮，我們已經逐漸看到化學品製造

業者，已經對於其在台灣的研發，採取更為保守的策略及作法，

我們正在進一步與更全面的評估它對化學及電子產業的衝擊。

雖然毒物及化學物質已在登錄辦法中，提供了較為簡易的

商業機密保護申報，但它僅限於保護研發所使用的化學物質。生

命科技與化學材料製造業者，於研發過程中，有許多新成分及

化合物，需保護其獨特性及商業機密，保護這些成分及化合物

的研發，對於台灣未來發展極為重要。

為推動化學品登錄的程序中，若每家公司必須各自於化料、

化成品及進口或生產的化學物質，這種重複性的工作非常浪費時

間及金額。本委員會對於TDFA過去一年在促進化學品業與化

料及化成品業界之間順利溝通方面的努力，以及在化學品安全

網路平台（CWS）推動化學物質登錄及申報作業系統上，都表達

非常感謝。
敦促TFDA鼓勵業界發展產業自律，以滿足未來化粧品市場的需要。

本會提出建議如下：

建議一、採納涵蓋最新科技演進並可與貿易夥伴相調和的化粧品法律定義

有鑒於過去40多年的科技進步，早年施行的化粧品衛生管理條例中，有關化粧品的法律定義已明顯過時，且無法與消費者的需要同步，現行條例將化粧品定義為「潤澤髮膚、刺激嗅覺、掩飾體臭或修飾容貌之物品」。在此定義之下，保濕與滋潤肌膚、淡化臉部老化皺紋、以及保護皮膚免於紫外線傷害之產品即被排除在外。然而，此類產品在世界主要市場廣泛流通，也早已廣為台灣消費者所接受。

基此，本會樂見台灣食品藥物管理署啟動化粧品衛生管理條例的現代化程序。惟本會同時發現，於2016年下半年公告，化粧品衛生管理條例修正草案中草擬的化粧品定義仍難謂廣泛，亦未適當地與美國及其他主要貿易夥伴取得一致性。本會呼籲，政府應採納足夠包含所有產品態樣與功能的廣泛化粧品定義(包括防曬乳、含抵禦環境因子傷害成份的抗氧化乳霜或乳液、具有改善口氣與保護功能的口腔護理產品等)。最為實際的立法模式即是採用主要國家或地區的定義方式：「指施於人體外部(表皮、毛髮、指甲、嘴唇與生殖器)或牙齒、口腔黏膜，專門或主要用以清潔、芳香、修飾容貌、保護或使之維持良好情況、或改善體味之物質或混合物。」依此，可以涵蓋防曬功能產品與滋潤皮膚的化粧品，例如護脣膏等等。

建議二、承認其它國家化粧品優良製造規範(GMP)等同於在化粧品衛生管理條例下所設定的化粧品GMP

目前化粧品優良製造規範(GMP)在歐盟(EU)及東協(ASEAN)雖然是強制性要求。但是，這兩個區域的衛生主管機關均接受其他國家GMP的標準。但是，台灣食品藥物管理署(TFDA)將國內化粧品GMP定位為唯一標準。這無疑將會造成貿易上重大的技術障礙。因此，本會建議台灣食品藥物管理署必須要採納其它國家所頒行之化粧品GMP。另外，也應同意化粧品公司得自主宣稱其所使用之GMP標準，符合台灣化粧品GMP規範。

建議三、重新修訂化粧品法以避免形成技術性貿易障礙並推動法律規制透明化

本委員會歡迎台灣食品藥物管理署開始揭露其法規的決策理由，而不是使用未公開的內規。本會提供以下具體建議：

1. 確保化粧品成分的限制皆基於科學根據，並以公開透明方式引進相關規定。部份化粧品成分受到使用範圍與劑量的限制，耶穌是特別化粧品的活性成分、化粧品的中色素等。本會委員呼籲台灣食品藥物管理署處理製造商必須要遵循科學根據，而無法與消費者的需要同步。現行條例將化粧品定義為「潤澤髮膚、刺激嗅覺、掩飾體臭或修飾容貌之物品」。在此定義之下，保濕與滋潤肌膚、淡化臉部老化皺紋、以及保護皮膚免於紫外線傷害之產品即被排除在外。然而，此類產品在世界主要市場廣泛流通，也早已廣為台灣消費者所接受。

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2. 研擬中的產品資訊檔案制度應確保其可行性和合理性，並應具針對關鍵性法規需求，本會委員呼籲化粧品管理署的

建議四、避免創設獨特的「更正廣告」政策

相較於推動廣告自律的國際最佳實踐，化粧品衛生管理法草案授權給主管衛生的公務員，來判定該廣告或宣稱是否為「嚴重誇大或不實」，甚至包括了那些不涉及安全及衛生的廣告內容。違規者必須以「更正廣告」之名，刊播或刊載道歉啟事。本會得知，在2013年衛福部主辦的公聽會中，已有從草案移除的「更正廣告」條款在目前草案中恢復，本會對此深感憂慮。這項措施將授與衛生主管機關極大的權力，包含毀損一家公司商譽及品牌價值的能力，該權力擴及至其專業權限以外的區域，而未提供被指控者在正當程序中的及時司法救濟。

化粧品委員會贊成先前零售委員會的立場，認為立法院應撤回此部分之草案。世界上主要國家并未制定化粧品廣告法，實不需要設立台灣獨有的條文。

如果「更正廣告」條款生效，它甚至可以被認為違反國家憲法所保障的言論自由。在替代作法方面，我們建議主管機關可與業者進行廣泛討論，以指定廣告指導原則及產業自律的制度，這種作法在其他許多國家已證明是有效的廣告管理模式。
能源委员会

今年成立的能源委员会旨在为商會提供更好的服务，会员包括工业能源使用方、生产方及其他产业参与方。本委员会致力于维护和增进台湾与美国商会会员的竞争力，促进能源消耗产业和能源生产产业双方的利益。

本委员会希望与相关政府单位合作，制定一套明确可行的能源策略路径与时间表，期以促进以下目的：
1. 确保台湾的供电持续稳定可靠，电价具竞争力。
2. 促进能源建设发展。

建议一：持续确保电力供应充足稳定，电价具竞争力。

充足的电力供应对高科技制造产业而言至关关键，即使是一秒钟的电力中断也会造成严重的设备损坏甚至重大产量损失。政府必须承担电力供应稳定的义务，对于工业用电的盈余与长期投资策略至关重要。工业用电方必须在未来数年的生产过程中确保充足的电力供应，一旦做出决定，便需持续数十年之久。因此，台湾必须为未来的情况提前做好准备，避免将来在能源供应方面产生不确定或不可预测的问题。

台湾的能源供应目前主要依赖核能发电，但随着台湾社会对核能的担忧，政府已决定在2025年停止核能发电。因此，台湾必须寻找其他的能源来源来替代核能。在寻找替代能源的过程中，台湾必须确保能源供应的稳定性和可靠性。

因此，政府必须在现有的核能电厂停止运营之前找到替代能源的来源，包括天然气、可再生能源（如风能、太阳能）和其他新兴能源。同时，政府还必须加强与邻国的电力合作，确保在紧急情况下能够获得稳定的电力供应。

对于未来能源供应的不确定性，政府必须制定明确的政策和规划，以确保能源供应的稳定性和价格的竞争力。同时，政府还必须加强与邻国的电力合作，确保在紧急情况下能够获得稳定的电力供应。
建議二：透過嚴謹調整政策流程，加快基礎設施建設，扶植國內
供應鏈，促進產業發展

要滿足不斷攀升的電力需求，台灣必須面對幾個重大挑戰。首先，在全國六成民眾反對興建核電廠的情況下，台灣將無法從核能產生足夠所需的電力；其次，去年出現的週期性缺水也影響了水力和火力發電效率。眼見消費者每逢電價調漲和限電措施必強烈反彈，台灣確實需要將能源來源多元化，同時強化傳統能源基礎設施。

台灣目前正希望發展綠能產業，這個處境也帶來了契機，不失為減少溫室氣體的途徑，同時也可能創造就業機會，甚至為技術和設備外銷帶來商機。為實現此一願景，很重要的是有充分的實體和法令基礎設施到位，以利及時有效實現全國能源目標。

此外，台灣若要成為本區能源技術和設備的供應來源，則必須著重發展基礎設施，建立必要的研發能力，以刺激本土產業成長；在這過程中，從海外合作夥伴轉移知識將會是很重要的一環。

我們提出的具體建議如下：

1. 要吸引國內外業者投資供應鏈，以建立後續成長的本地基礎，必須具備一定的市場規模。

2. 這些方法是用來引進新興材料和創新技術，然而目前公共工程標案卻難以運用“新技術”和“新材料”。首先，工程負責單位為避免圖利特定廠商之嫌，往往不明確公告新材料規格。其次，現行材料檢驗標準未能將新技術和新方法納入考量。台灣若不增進其採購流程的靈活性，勢必將無法運用新技術來改善既有能源生產與輸送設備的使用。

3. 勞基法第30條之1（四週彈性工時）所稱“中央主管機關指
定之行業”，應採取原則允許，例外限制之做法。現行適用該條之行業過於狹隘，實務上各行各業均有彈性調整工時需求。再者，彈性工時須經工會或勞資會議同意，在勞工權利受保障之前提下，給予勞雇雙方彈性安排工時之空間，亦不損及勞工權利。

4. 新能源在促進能源供應的同時，亦應兼顧環境保護，以免造成生態破壞。因此，必須制定明確的政策，以促使新能源發展的同時，亦能保護環境。

5. 對於離岸風電開發需要注意能源安全與環境管理標準，降低
能源風險及對環境的影響。此外，必須確保離岸風電的技術創新和管理標準，以確保其安全性。同時，應加強對離岸風電的監管，防止環境破壞，以保障生態平衡。

6. 為了促進離岸風電的發展，應制定具體的政策，以鼓勵產業界投資離岸風電。同時，應加強對離岸風電的監管，防止環境破壞，以保障生態平衡。
2.3 明定於工作規則或勞資契約內約定加班時數上限時，應注意勞工權益，避免加班時數超過合理預見性。

3. 建議三：積極推動勞工休假权利

3.1 放寬勞工請假規定

勞工請假時，應達成勞資雙方同意的條件，以確保勞工權益不受侵害。

3.2 放寬婦女休產假規定

對婦女休產假的規定，應考慮婦女的特殊需求，保障婦女的生育權。

3.3 放寬工作時數上限規定

為避免避免無因職務特殊性，強制勞工加班，本委員會建議放寬16小時的工作時數限制，並交由勞資雙方協商決定。

3.4 放寬資深員工退休規則

對資深員工的退休規則，應考慮其職務能力及貢獻，並保障其職務權益。

4. 建議四：營造和平勞資關係

4.1 改善勞資關係

應著重於勞資雙方的協商和合議，營造和平的勞資關係。

4.2 為勞工爭取合理權益

應注意勞工的權益，避免因為勞資雙方的爭議而影響勞工的權益。

5. 建議五：強化勞資協商機制

5.1 建立勞資協商機制

應建立勞資協商機制，讓勞資雙方能夠協商決定企業的勞資政策。

5.2 建立勞資協商機制

應建立勞資協商機制，讓勞資雙方能夠協商決定企業的勞資政策。
今年我們提出4項建議，目標是減少業務障礙及修改招標評選流程。舉例來說，若選擇「低投標金額」作為評選指標，可能會降低外國公司投標意願，因為該評選流程未能兼顧台灣公司通常能提供的品質要素，如創新的執行方式、先進的專案管理方法和流程、及提升施工過程的健康與安全。

建議一：允許採用國際仲裁法規
外商在考慮參與國際招標時的決定性因素之一，是評議程序是否符合國際標準。商務部在公共工程委員會(ICC)所倡導的仲裁規則規範，去年在美國商會與公共工程委員會(ICC)座談時，本委員會成員曾建議在公共工程合約中允許外商選用在本地採用ICC仲裁規則，此建議當場得到吳宏謀主委的正面迴應。本會認為此原則修改政府採購法，不僅可行性高，而且為台灣政府採購流程的商規化邁出重要一步。

在台灣多數的業主都選擇在本地法院採用外商不熟悉的本地仲裁規則解決爭議。本會建議政府業主當選(i)在第三地進行，以提供完全中立的環境解決爭議或者(ii)按台灣法律在台灣的地點，採取ICC仲裁規則進行仲裁。

鼓勵公營機關採用比較有彈性的做法，可以大大消除外商對爭議處理公正性的疑慮。雖然在公共工程委員會的標準合約中有此選項，但是除非有上級機關指示，大多業主都傾向選擇本地法院或本地仲裁條款，並不願意主動選用更為獨立公開的仲裁規則。

為了更好的支持政府業主考慮採用第三地仲裁，我們建議公共工程委員會在標準合約中加入以下文字，傳達此一精神，即“在標案進行期間，如遇廠商提出要求，業主得同意於國內仲裁地點採用ICC規則進行仲裁”修訂標準合約的細節還可以討論，如能接受此一原則，本會認為一定可以吸引更多國際一流的公司參與台灣的重大公共建設。

建議二：修訂公共工程契約範本，使承包商得通知業主變更契約
另一個使國外承包商考慮是否參加國際招標的重點是，當工程範圍或工程進度變更時，雙方變更契約條款的權利是否公平。事實上，公平且國際化的契約條款可為外國公司參與台灣公共工程招標提供健全的商業環境。

許多公共工程委員會發佈的契約條款可作為政府機關制定契約及業務安排時的實踐準則，然而，該等條款仍待修正。尤其技術服務契約範本及工程契約範本中，其規定僅政府機關得通知承包商契約變更，卻無承包商通知政府契約變更的條款。缺乏承包商有權通知契約變更的正式規定令人感到擔憂，因為可能影響承包商基於工作範圍及工作進度的變化，調整時間及成本支出的權利。

公共工程技術服務契約範本第15條“契約變更與轉讓”，甲方向乙方於契約所約定之範圍內通知乙方契約變更，乙方於接獲通知後，應於10日內向甲方提出契約變更之相關文件。契約變更之機制僅規定甲方向乙方通知契約變更，而不包含乙方通知契約變更的權利，因此對外商承包商來說，是不公平且高風險的契約。

本會強烈呼籲公共工程委員會增訂契約條款，當承包商認為工作範圍或工程進度改變時，其有權通知變更契約，如此才能去除契約條款的片面性。

建議三：公共工程招標應以「最低標」而非「最低標」作為評選流程
外國公司通常不會參與以最低金額者得標的國際招標，因為該評選流程不重視外商公司通常能提供的品質要素，如創新的執行方式、先進的專案管理方法和流程、及提升施工過程的健康與安全。

今年我們提供4項建議，目標是減少業務障礙及修改招標評選流程。舉例來說，若選擇「低投標金額」作為評選指標，可能會降低外國公司投標意願，因為該評選流程未能兼顧台灣公司通常能提供的品質要素，如創新的執行方式、先進的專案管理方法和流程、及提升施工過程的健康與安全。

舉例來說，若選擇「低投標金額」作為評選指標，可能會降低外國公司投標意願，因為該評選流程未重視外國公司通常能提供的品質要素，如創新的執行方式、先進的專案管理方法和流程、及提升施工過程的健康與安全。
取勝，促成廠商投入技術升級，造成良性循環。

作為一個可能應用的樣品工程，目前在進行中造價達800億的中油第三天然氣接收站就會是最適合試用開放替代方案的對象。

此一工程期程極為緊急，國內供電缺口極待依靠天然氣發電緩解，如有國際一線廠商提出可縮短期限之替代方案，對於整體社會之利益實在無可估計，而整套評估替代方案之規章亦可藉以建立。

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此類工程之完成有賴國際一流廠商，以其豐富經驗衡量工地條件，也許提出一個微小的工法改變即可節約極大的工期與成本。政府也可以向國際、國內工程界、業主、納稅人展示以新觀念新作風執行重大建設的決心。

本委員會深切相信如果能成功的採用替代方案競爭，可以大大的提高本地顧問與工程公司的技術實力，促使他們跟上世界最新發展，提高他們的國際競爭力。如果有關單位對以上建議有所垂詢，本會可以提供進一步的說明。

保險委員會

本保險委員會將今年白皮書內容分為二部分來說明保險業之二種業務:人身保險業及產物保險業,由於電子商務及金融科技在全球保險市場的持續發展帶來影響,這二種保險業務正在經歷重大變化。

本保險委員會今年論述主題是提升台灣民眾個人及家庭對於保險保障之需求,此主議題與人身保險業及產物保險業息息相關。基於這個目標,一方面我們建議如何鼓勵保險公司致力於提高保險保障,另一方面,則建議促進台灣保險業之財務健全及業務開放。

我們也希望保險業者與政府進一步合作,努力教育消費者有關保險能提供保險以預防收入的損失、財產或所有權之損失、生命身體意外事故及退休後的長壽風險的功能。

本委員會對主管機關改善消費者取得保障型商品的管道表示認同及感謝,我們持續期待主管機關作出更積極的開放,讓民眾得以透過創造的新商品和科技,且在資訊透明的狀態下取得適當的保障。

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，台灣應加速採用國際標準,藉由開放以簡單、透明、方便的網路投保方式來購買保險商品,讓更多的社會群眾可以享受他們所需求的保險。

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我們也建議主管機關以更利於消費者的替代方案取代現行審閱期之規定,例如修改保險公司之資訊揭露義務,以及將十日契約撤銷權法治化,作為取代消費者保護法中有關契約審閱期之規定。
本委員會支持並認同政府近期推動和鼓勵台灣的金融科技所做的努力，
但主管當局於2015年10月公告的函釋似乎和這個方向背道而馳，這項函釋所開放的10家金融科技公司或保險代理人試辦網路投保業務，並且加上上年度營收最低新台幣5億元的限制，這項限制明顯地排除了新設立及創新的公司，而僅允許傳統的和長期存續的公司(通常以經傳統業務員通路為主)進行申請。這並不符合全球性的準則，且事實上亦無其他地區有相同的限制。為了適切利用金融科技的本質，我們建議刪除這項額外的限制，並增加可申請的數量，來鼓勵及加速台灣保險產業數位化的发展。此外，由於電子簽署之限制，保險經紀人及保險代理人仍然無法與保險公司的電子商務系統連結，這需要政府進一步解決此問題。

2.4 開放電子錄音具法律效力，以符合保險科技之發展
因數位化方式和電話已成為越來越多消費者購買保險的管道，以電子錄音方式保存客戶對於核保詢問的告知，將在事故處理及解除契約時具有法律上的效力。沒有法律效力將對保險業營收產生高度的風險，同時亦限制了保險業能提供給消費者選擇的保險商品。我國壽險業第46條採取「書面詢問原則」，書面詢問原則係指要保人之告知義務範圍，以壽險公司特定詢問事項為限，至於實務上詢問是否應以紙本書面方式為之，則非本原則關切之重點。因此，透過電子文件或電話方式執行健康告知事項詢問，並無違反現行壽險業第64條之「書面詢問原則」。我們建議修正「保險業辦理電話行銷業務應注意事項」第9點第4項的規定，讓電子錄音得以產生法律效力以符合前述目的。這個改變將使台灣符合國際實務，並持續促進保險數位化發展。

建議三：於負債擔保相關法規中納入「指數連結金」
為鼓勵退休型年金商品之創新，保險局於2015年間開放負債擔保投資型年金商品之負債避險，即在保險業從事衍生性金融商品交易管理辦法中開放「特定負債部位」為被避險項目。然而，此辦法並未將美金市場中一種創新的指數連結年金商品納入，此商品即為指數連結年金（Fixed Indexed Annuity）。因此，雖然台灣的壽險業者與消費者均對於類型商品表現出濃厚的興趣，然此類型商品的發展卻由於法律上的限制而嚴重受阻。由於指數連結年金商品在風險的本質上與負債擔保投資型年金商品相似，甚至比保險業者與消費者的觀點中，都同樣為安全保守，我們建議在負債擔保的相關法規中併納入指數連結年金。

產物保險

建議重新檢視保險商品之法令架構，以提升消費者保護，同時賦予保險公司更大彈性，以因應不斷變化的市場需求，強化風險管理及提升競爭力。鑒於主權機構於2015年間啟動的兩年開放負債擔保投資型年金商品之負債避險，即在保險業從事衍生性金融商品交易管理辦法中開放「特定負債部位」為被避險項目。然而，此辦法並未將美金市場中一種創新的指數連結年金商品納入，此商品即為指數連結年金（Fixed Indexed Annuity）。因此，雖然台灣的壽險業者與消費者均對於類型商品表現出濃厚的興趣，然此類型商品的發展卻由於法律上的限制而嚴重受阻。由於指數連結年金商品在風險的本質上與負債擔保投資型年金商品相似，甚至比保險業者與消費者的觀點中，都同樣為安全保守，我們建議在負債擔保的相關法規中併納入指數連結年金。

產物保險

建議重新檢視保險商品之法令架構，以提升消費者保護，同時賦予保險公司更大彈性，以因應不斷變化的市場需求，強化風險管理及提升競爭力。鑒於主權機構於2015年間啟動的兩年開放負債擔保投資型年金商品之負債避險，即在保險業從事衍生性金融商品交易管理辦法中開放「特定負債部位」為被避險項目。然而，此辦法並未將美金市場中一種創新的指數連結年金商品納入，此商品即為指數連結年金（Fixed Indexed Annuity）。因此，雖然台灣的壽險業者與消費者均對於類型商品表現出濃厚的興趣，然此類型商品的發展卻由於法律上的限制而嚴重受阻。由於指數連結年金商品在風險的本質上與負債擔保投資型年金商品相似，甚至比保險業者與消費者的觀點中，都同樣為安全保守，我們建議在負債擔保的相關法規中併納入指數連結年金。

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處理網路上的侵害行為，以防止遠遠落後於世界其他地區。本委員會認為台灣所進行的保護及執行方式，不過是缺席就是令人費解。

著作權法的修正已經進行多年了，但持續不前。第四版目前仍在審閱中，但此修正對於迫切且日益嚴重的著作權侵害問題未作有作為。本會認為台灣政府所進行的保護及執行方式，不是缺席就是令人費解。

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截至2012年12月，台灣實體販售的書店及書刊銷售總額約為新台幣5,525億元。隨著網路及電子商務的發展，許多書店已陸續開設網路書店，提供線上購書及配送服務。此外，網路書店也為讀者提供了便利的閱讀和購買選擇，促進了閱讀希 }

1. 維持現行預的刑事罰則，特別是對於光碟盜版最低6個月有期徒刑的規定。現代已更有先進的複製技術與載體能夠儲存更高品質及更多數量的侵權作品，因而對於著作權利人的合法業務造成更大威脅。例如，2014年11月查獲超過50,000片江蕙現場演唱會的盜版光碟，以及2015年12月也查獲超過50,000片載有未經授權電影、音樂及軟體的盜版光碟。由於2015年實體販售的書店及書刊銷售總額約為新台幣5,525億元。隨著網路及電子商務的發展，許多書店已陸續開設 recibir Grosartig 0x0 1. 歐洲的智慧財產局著作权法修正草案建議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴張WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作权法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴張WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作权法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴張WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作权法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作权法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴張WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作权法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴張WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作权法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴張WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作权法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴張WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修正草案擬議之以「通常家用接收設備」再公開傳達的合理使用規定不合理地擴展WTO世界貿易組織的TRIPS協定（與貿易有關之智慧財產權協定）中所允許的例外規定。智慧財產局著作權法修...
此文件要求亦或提供其他替代證明文件以供審查。現今製造廠多行跨國生產行為，許多製造廠僅有製造但未在原產國上市，以導致無法提供製售證明而無法申請國內查驗登記或致原有許可證無法展延。產製國製售證明所載明之製造廠、產品等資訊，可參考其他文件及標籤等，然產製國製售證明之替代方案，試行後可進一步考量取消「產製國製售證明」之規定。

本會懇請食藥署考量國際醫療法規發展趨勢，並加速國內醫療器材管理法規與國際調和，逐步取消「產製國製售證明」之規定，以期提供國內醫療器材產品與全球同步。

### 其他

#### 脊骨神經醫學

**建言**：制定一個可實用的計劃來認可脊骨神經醫學

自2006年以來，每年美國商會的脊骨神經醫師會員在台灣白皮書內容都一直提出相同的訴求：提供脊骨神經醫學法源基礎，如同世界其他九十餘國所為一般。在國家發展委員會與衛福部的協助下，過去幾年來有數次的討論，並期待有所進展，然而仍未有明確的解決方案。同時，台灣人口持續朝快速老化的速度發展，估計在2025年台灣將成為65歲以上人口佔總人口20%的超老化社會。

蔡英文政府團隊的一個重要中心施政方向就是提供年老者良好的長照政策，來協助確保老年人能過著健康、有活力的生活型態，且儘可能越多年越好。然而對政府來說，期望在提供這項服務的同時又不過度加重目前財務吃緊的健康照護系統，實在是一项挑戰。

這項挑戰的一部份解答，即是在台灣提供脊骨神經醫學照護的普及性。脊骨神經醫學以不吃藥、不手術的治療原則，是一項更為省錢的替代療法。我們並不特別要求脊骨神經醫學一定要納入全民健保。然而已經有許多篇研究，如世界脊醫聯盟在2012年世界衛生組織的研究提報，明確地證明了脊骨神經醫學在治療下背痛、頸椎痛、頭痛、與其他肌肉骨骼系統相關問題的成效與安全性。

自從2006年以來，每年美國商會的脊骨神經醫師會員在台灣白皮書內容都一直提出相同的訴求：提供脊骨神經醫學法源基礎，如同世界其他九十餘國所為一般。在國家發展委員會與衛福部的協助下，過去幾年來有數次的討論，並期待有所進展，然而仍未有明確的解決方案。同時，台灣人口持續朝快速老化的速度發展，估計在2025年台灣將成為65歲以上人口佔總人口20%的超老化社會。

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除了人口老化的問題之外，近年來台灣在騎自行車、跑步、健行，或是上健身房健身的風氣都越來越盛。運動一方面能增進健康與更好的體適能，另一方面也常伴隨著疼痛與傷害的發生，這些也都是脊骨神經醫學特別善於處裡的項目。

台灣政府一直不願意將脊骨神經醫學合法化的原因是甚麼？在過去，主要的阻力就是主管機關一直將脊骨神經醫學視為一種“技術”而非“專業”，認為其他醫療專業一樣可以學習與實施相同的治療技術。然而最近才逐漸了解，原來脊骨神經醫學醫師是需經過五年學士後醫學的專業醫師。
在2016年的白皮書中，為了持續改善台灣製藥業整體的環境，製藥委員會向台灣政府誠心地提出了三項建議如下：
1. 完成專利連結與資料專屬權的立法程序，以強化對創新產品的智慧財產權保護，確保藥品創新的投資環境。
2. 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。
3. 維持一個可長可久的醫療制度。

製藥委員會

2018年10月

製藥委員會在2016年的白皮書中，為了持續改善台灣製藥業整體的環境，製藥委員會向台灣政府誠心地提出了三項建議如下：
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3. 維持一個可長可久的醫療制度。
貿易委員會肯定食品藥物管理署於過去兩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，許願於2017能完成後續之法律程序，建立完整的配套機制。

建議方向:

1. 建立簡易、明確、永續的專利連結施行細則
   (A) 參考美國作法，將專利號碼與請求項予以公布，避免藥物管理署面臨認定與審核之紛爭。
   (B) 估量專利保護，原開發廠專利到期後才核發學名藥許可證與核准給付價格。

2. 延長資料專屬權適用範圍，除了新適應症，也包含新劑型與新使用途徑；對生物製劑給予12年的資料專屬權保護。

3. 透過行政院與立法院的積極溝通協調，在2017年完成專利連結與資料專屬權的立法程序，以強化對創新產品的智慧財產權保護。

賴立新藥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。從一本國生物製藥投資環境的報告中發現(BCI，Biopharmaceutical Competitiveness & Investment)，製藥投資環境優良的國家(從智慧財產保護到創新藥物近度)，其在其他政策領域的經濟發展及競爭性也較優越。可見製藥產業的投資環境之良窳可做為國家整體經濟發展的指標。

然而根據近期統計，新藥或新適應症之審查時程相較於過去三年雖有些微改善，但仍有進步的空間。根據資料顯示，2016年食品藥物管理署處理新成分及生物製剗新藥查驗登記之天數達400天，達成目標值360天的核准比例僅有43.3%。而處理新適應症查驗登記所需天數190天，然核准比例僅為44.7%。儘管相較於過去三年其審查天數有些微加速，但仍有相當大的空間可以同時加快審查時間以及提高核准的規模。製藥委員會擔心此新藥及新適應症核准時間的延宕若無持續改善將嚴重影響病患用藥的權益，特別是危及生命的藥品。

此外，新藥或新適應症之健保給付審查時程有顯著之延宕。二代健保上路後，新的給付審查系統施行四年來，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429天，明顯較一代健保時程更長，尤其癌症新藥審查耗時更長，平均長達782天，不但沒有改善的跡象，而且每況愈下。製藥委員會強烈盼望衛福部/健保署增加新藥預算金額，如此一來加速新藥引進台灣，以幫助病患臨床上未被滿足的需求。

建議方向:

1. 改善並加速新藥及新適應症藥品查驗登記的時程。無論是新藥或新適應症，都應該有更具有效率的流程和執行方式來加速審查。期待2017年能夠達到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，同時製藥委員會也建議將核准比例由現行約40%提高到90%。

2. 期許新藥的適應症內容能與歐美一致；多數新藥或新適應症查驗登記在食品藥物管理署審查中，歐美國家相一致，若非特殊亞洲地域性疾病或人種差異考量，直接沿用歐美已核可之適應症內容並無不妥之處，對於一些食品藥物管理署認定之適應症被限制縮小範圍者，而與歐美認定內容不同的案，除了適應症之標準延誤或導致有病患無法使用，亦可能對其他亞洲市場產生負面影響，限制適應症可能使原始對待台灣參與臨床試驗及提早於台灣上市查驗登記的意願大幅降低，且使病患用藥權益受損。若非特殊人種差異考量，我們期待食品藥物管理署認定之適應症能夠與歐美一致。

3. 增加新藥預算。短程建議可以分為三個時期
   (短期) 使用現有結餘款項投資新藥/新適應症收入健保給付的預算；製藥委員會建議健保署多項節流措施所節餘的經費，可用於在新創薬物的給付，此部分可以增加新藥預算之可能財源如下:
   1) 每年根據藥費支出目標(DET)所進行之藥價調整結餘款，應優先用於新藥/新適應症擴增給付。2016年根據藥費支出目標所調降之藥價金額達57.1億元，應該確實挹注在新藥/新適應症納入健保給付的財源。
   2) 價量協議之廠商回饋金額應用於新藥/新適應症給付。因新藥或新適應症進入健保給付系統而需額外之價量協議，其還款之本質本應屬政府健保藥品支出費用「減項」，因此，其還款總額應每年定期結算後回歸新藥預算使用。例如，每年藥品支出平均約新台幣1600億元，2016年價量協議還款總計15億，則政府於2016年藥品淨支出應為1585億元，而非現聲稱之1600億。此結餘款項來自新藥或新適應症，因此，理應挹注於新藥預算之財源。
   (中期) 改變政策思维進行資源重分配：目前的健保從感冒到重症治療皆在其涵蓋的服務範圍內，然而資源有限，主管機關應改變思維使其成為保大不保小的保險制度。如指示用藥退出健保不予給付，或思考推動部分負擔，都可增加新藥預算之財源。
   (長期) 著重於新藥預算編列應公開新藥給付規劃流程：為使新藥預算編列能讓所有可能受惠之人皆能及時獲得治療，建議健保署應該公開新藥預算的編列流程。

4. 通過應用「給付管理合約」，確保台灣患者能夠及時獲得新薬。新藥給付時希望物有所值，衍生必須因應的挑戰是如何適切地評估新藥所帶來的臨床益處，並同時考量國家整體的負擔能力。解決這個問題的一個有效的方法是應用「給付管理合約」。這是付費者在面對新藥給付時，考量本身負擔能力及新藥臨床益處後，仍無法順利決定，因此必需就新藥之特性與新藥供應商做協調，在彼此的協議下所簽訂的給付合約。因為是本於彼此互信的基礎上所達成的雙邊合約，給付合約是一種保密協定，協議的條款基本上都應該公開討論或報告。
確定性，確認新藥的有效性及成本效益；2）讓病患接受創新療法的治療；3）增加藥費給付的靈活性；4）不同的方案可以解决不同的需求；5）更好地控制預算；6）提高成本效益；7）改善決策所面臨的困境。

給付管理合約，特別適用於在一般給付模式下，例如價量協議或限制嚴格的給付規範後，仍無法順利納入給付，但又有高度臨床需求的疾病。台灣政府應就解決創新藥物給付的困難而言，應建立屬於台灣的「給付管理合約」機制。這是一項緊迫的任務，製藥委員會建議台灣政府應儘速開放與所有相關團體合作（新藥供應商、醫療服務提供者、病人）建立屬於台灣的「給付管理合約」機制並完成相關法令的修訂，以確保台灣病人可以及早接受創新藥物治療。

醫療科技日新月異且其對人類最大的貢獻在於健康促進，我們建議主管機關應以病人為中心思考如何制定跟上科技發展腳步的解決對策。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，應該建立優先審核程序，以便加速審查流程及及早納入健保給付。

台灣的醫療體系除了需要更多的資源投入，另外也需要一個穩定透明的藥價管理機制，以期提供病患更完整的醫療服務。製藥委員會感謝健保署在過去一年當中與製藥產業保持開放的對話，並回應產業界的建議，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，第二階段藥費支出目標試辦計畫已於2016年完成，應將其正式列入實施細則以達更透明、更公平以及更符合預期性的目標。就有關基期值之重新訂定、無專利單源性藥物之R-Zone設定以及過專利期1-5年內調整金額和價量協議所繳回金額是否從超出目標值扣除，均有待公平合理的解決方法。

姬戱於衛福部過去的成就，我們建議貴部投注更多努力於下列幾項建議：包括癌症預防及治療、建立穩定的疫苗基金財源、以及病毒性肝炎的預防及控制。

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。根據美國癌症協會2010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，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年癌症所造成之經濟損失估計高達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。這幾年來，在整體醫療保健支出當中，家庭自付費用的比率逐漸在上升，但是政府支出的比重卻不斷下降，台灣公部門預算在醫療保健的支出上，不論是占整體國內生產毛額的比值或是占整體醫療保健的支出比例，相對於其他OECD國家而言，都比較低。從OECD的證據顯示，台灣在2004-2013年間，其整體醫療費用支出佔國民生產毛額的比值均維持在6.2%-6.6%的範圍，這個比值在2006年以前台灣一直比韓國還高，但在2007年後被韓國超越，韓國在2013年整體醫療費用支出佔國民生產毛額的比值已達到7.8%，鄰近的日本其比值在2004-2013年間亦已達8.0%。
提升台10.3%。這表示，台灣政府沒有在健康照護及醫療資源分配上做出適當的財政預算。從癌症病人的角度看，台灣在公共領域的投入不足，直接對家庭帶來了支付費用及尋求更好的照護難題。

根據《2016年白皮書》．衛福部與世界衛生組織政策目標一致並計畫在2020年將癌症死亡率減低到9.5%及過早死亡率降低25%。這就表示，台灣政府沒有在健康照護及醫療資源方面配置足夠的公務預算。從癌症病人的角度看，台灣在公衛領域的投入不足，直接造成家庭需提高自付費用以尋求更好的照護。

根據《2025年衛生福利政策白皮書》，衛福部與世界衛生組織政策目標一致並計畫在2020年將癌症死亡率減低25%，並使30到70歲間世代之癌症死亡率在2025年降低25%。然而，台灣長年來只顧及支出面的控制，而不太重視公共福利之投入，影響實際所得及早期診斷的可及性，直接造成民眾需提高自付費用以尋求更好的照護等。因此，台灣政府更應考慮並提出改善整體醫療給付的相關措施。

我們建議衛生福利部應重新檢視目前全民健康保險之癌症給付內容，並透過資源之重新配置以涵蓋更多新藥與新醫療科技，幫助病人重拾生活品質、恢復其工作與社會功能，以重新回歸正常生活。

台灣疫苗基金自2010年成立以來，財源約46%來自公務預算，來自菸捐的收入比重高達53%（註: 尚有1%来自其他財源），然而菸捐並非穩定的財源且正逐年下降中。2016年基金的需求和收入有3.2億元的缺口，2017年基金缺口估計亦達4億元；隨著菸稅可能提高，菸捐整體收入未來還會進一步下降，此一不穩定的財務結構，相當不利於新政策的導入與推行，值得政府高層注意。

非法捐對疫苗基金的衝擊使新疫苗政策無法推動。以65歲長者接種肺炎鏈球菌疫苗的新政策為例，由於菸捐預算大幅減少，2016、2017年僅能暫緩實施，十分可惜。根據衛福部「實施國家疫苗基金及促進國民免疫力計畫」以及衛生福利部傳染病防治局預防接種組委員會(ACIP)決議，尚待導入的疫苗仍包括青少年宮頸癌疫苗、幼兒輪狀病毒疫苗、幼兒B型肝炎疫苗等。

亞洲其他地區如日本、香港、馬來西亞、澳洲等國家這政策有效於公務預算支應。日本、韓國和澳洲皆已推動長者公費接種肺炎鏈球菌疫苗(香港採部分負擔模式)，全球已有62個國家導入宮頸癌疫苗，81個國家導入輪狀病毒疫苗；隨著跨境投資與旅遊的發展，未來還有更多新疫苗將被採用，台灣政府應重新考慮公費接種的政策。

我們建議台灣政府務必重視這些國內及國際的發展趨勢，並及早規劃疫苗基金的發展，確保台灣在未來的國際競爭中維持優勢。
目的为防範市場價格的不當炒作，財政部並提示當外國投資方取得中華民國國籍並得適用國內所有人的稅率。惟本會認為許多國外投資人為法人，於取得台灣國籍方面恐有困難之虞。再者，多數法人投資者投資境外資產主要為避險目的，短期投機的機率較小。

因此，美國商會於今年再度建議政府對國內外投資人稅率應為一致；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。

台灣地狹人稠，主要都會區可建築用地相當稀少。且依最新官方數字顯示台北市目前平均屋齡約為32.3年，約有45萬戶住宅超越30年，其中逾13萬戶屋齡更超過40年或以上。全台灣屋齡平均屋齡為28.9年，其中逾30年的房屋更超越380萬戶，其將近佔住宅存量約四成五。

老舊房屋對抵抗地震、颱風等天然災害的強度減弱及都市景觀產生影響外，很多都會區土地並未達到其最大使用效益。許多年輕人對台灣城市持續感到破敗，ため重大的都市更新將逐漸成為迫切與不可避免的都市居住環境改善、改造或再生的途徑之一。

但在台灣目前的法規環境，中央及地方政府針對都市更新皆有法源法規或約束，相關法規如：都市更新條例、都市更新條例施行細則、都市更新權變換實施辦法、都市更新建築容積獎勵辦法等。此外若都市更新計畫經分區變更，都市更新事業計畫亦需變更。因此，都市更新申請案件常在範圍劃定、權利變換、事業計畫等的審議階段過程冗長；一般而言，都更申請案若由整合、劃定、權利變換、事業計畫審核至請照開工，通常需費時約6至7年或以上。部分建商因時程及預算考量下，因而避開都更而轉向主要都會區外其他地區發展推案，進而造成城市水泥化的不斷蔓延。

本委員會於去年提出都更政策修正建議後，各級政府對於都市更新持續的努力，如台北市政府於今(2017)年初成立專案小組就現行都市更新執行困境提出相關改革對策，在都市更新計畫、審議效能提升、權變估價合理化及透明化、安置、政府職能執行代拆等面向均提出具體行動方案。但因房屋老化為全台灣各縣市共有及持續的課題，本會強烈建議各級政府進行全面性老舊建物的建物健檢，對有安全之虞的建物優先並加速進行都市更新。

此外，並加速進行都市更新審查流程的簡化及縮短審查時程。建議可考量賦予司法機關強制執行的權力，倘若一處更新地區已取得多數的同意書，但仍有少數居民持反對意見，政府可考量賦予法庭或法官在考量該地區居民的居住安全、生活品質及權利等前提下，進行強制執行。

但執行的前提必須考量憲法保障人民的基本權利，以公平、公開及民主為原則，並於都更相關修法時廣徵公眾意見，確保都更計畫的公平性及合法性。惟本會建議，相關法規及法規制定程序的品質對於能吸引外國投資或是令外國投資止步都是重要因素之一。尊重法律的政府往往更能增強提供投資者進入市場的意願。

零售委員會

零售事業持續作為台灣經濟的主要驅動引擎之一，因此，零售委員會承諾將與政府部門密切合作，深化零售事業的發展與面對共同的挑戰。特別是食品安全議題，本委員會將盡力分享美國的法制典範，並與政府合作，以促進管制目標的實現。我們樂於見到與衛生福利部、食品藥物管理署及行政院食品安全辦公室的相關合作已經展開，並得到認同。

惟本委員也擔憂，部分新訂法令在制定過程未經充分諮詢或效益分析，並且忽視相關措施造成之經濟與社會上的負面影響。例如，食品藥物管理署積極制定「巧克力」與「奶油」的嚴格定義，不僅與食品安全無涉，且造成標籤改版的大量成本及浪費。與此相類的是，臺灣政府不接受國外廠商的產品檢驗報告，卻僵化地強制要求對進口包裝食品進行重複檢驗。此等作法在國際貿易上實屬罕見。強制性的重複檢驗要求不僅是對於產業的過度要求，對於食品安全更未增加任何實際的價值。

涉及維他命、礦物質、植物與草本成份、胺基酸、酶及其他成份的膳食補充品，在許多先進國家是高速成長的產業之一，因為膳食補充品有益於消費者的整體健康，本委員會建議台灣應建立膳食補充品的專屬食品分類，以增進消費者的可取得性，並對消費者進行相關的產品健康宣導。

在法規訂定程序中，更大的開放性、透明度、以及充分諮詢利害關係人的作法，將有助於形成更切合實際、更具規制實益的法規。臺灣須同時留意，作为WTO的成員，有義務避免任何形成本質性貿易障礙的法規。本委員會呼籲政府，須與主要的貿易夥伴，協調各項食品衛生標準與法規，一個持續且穩定的法規環境乃是確保消費者保護、產業發展及經濟成長的關鍵要素。
經濟合作暨發展組織（OECD）就曾強調在法規制定上，「可靠及透明」是必要的。其實指出，「管理者行使權力時，負有責任使被檢範圍者提升對於市場及法規的信心以及對國家的普遍信任。」

在過去的數年裡，台灣的政府在法規的制定上，已有了許多令人稱許的進步。例如增加了利害關係人在法規制定中的參與，以及將對法規草案的意見發表期延長到了60天。然而，在「確保法規有科學及統計證據基礎，並且是符合比例原則及可行的」的事上，仍有一些進步的空間。

1.1 實施成本效益評估，並在草擬新法規時，一併揭露其評估成果

為符合比例原則，一個法規的效益必須大於其可能產生的成本。其間所需考慮的成本包括政府的監管成本、業者的法規遵循成本以及其他社會成本。在追求達到規範目的同時，政府應該選擇對於被規範對象限制最少及傷害最少的方法。

最近的一個例子是食品藥物管理署所公告的「巧克力之品名及標示規定」。雖然此一法規在使消費者能確認其所食用的巧克力能符合特定標準的目的上有其正當性，但其因此所產生的包括政府在市場及邊境的監管成本，以及業者在重新設計及製印包裝的成本均十分重大。由於外國供應商一般在包裝上往往有二至三年的庫存，大量的包裝材料將會因此而作廢。自此一法規生效之後，已經造成了供應商許多不必要的成本。

我們希望政府在未來在計畫任何新的法令時，能夠先進行成本-效益分析，並將結果公布，並在決定是否要實施該法規時，將前述分析結果納入考量。

1.2 確保法規符合現實並有科學依據及足夠的風險分析

進口有機農產品的農藥殘留的容許值在台灣一直是個問題。由於農藥鄰接汙染以及背景值對於有機農產品來說通常難以避免，主管機關於設定有機農產品的農藥殘留容許值尤其需要注意。以美國為例，只要不是直接施用，有機農產品含有一定農藥殘留容許值的5%殘留量是可以被容許的。問題的產生主要來自大眾對於有機食品產品必須是零農藥及零化學殘留的錯誤觀念。消費者需要了解所謂的「有機」並不是零農藥殘留，而是自然的農業方法。

我們呼籲食品藥物管理署及農委會能使用科學證據為基礎採取更符合比例原則的實驗方法。例如對進口有機農產品農藥含量的檢測，應與美國及CODEX的規範進行調和。

食品藥物管理署近期公布了要求食品業者，包括進口業者，對其產品實施週期性檢驗的相關規定。虽然其立意良善，但其實施方法卻產生了一些疑慮。在其網站的問答集中，非法規的本身，食品藥物管理署規定只有台灣本地的檢驗單位所產生實驗報告才能符合前述的檢驗要求。至於跨國公司總部或外國供應商所提的檢驗報告，在其問答集中認為不符合比例原則及可行的，其理由為這些報告的單位與台灣食品業者並不「同一實體」。對於包裝食品來說，其產品是在生產後完成封裝，其運送亦是在良好的控制環境下進行。因此，在台灣本地實驗室另進行額外的檢驗對於消費者來說並不具價值，其要求在台

1.3 與主管部門的溝通

在實驗室進行檢驗時，必須確保有足夠的實驗資料可以支援其決定。主管部門通常會指定合格的實驗室執行檢驗。但實驗室的數量或其實驗載量有限，往往為供應商帶來一些困難。例如，金屬工業研究開發中心是經濟部標準檢驗局唯一指定測試水龍頭的實驗室。因其測試載量有限，每批測試時間至少需要兩個月以上，因而許多廠商排隊等待測試的時間。台灣兒童商品研發中心是經濟部標準檢驗局接受進口玩具檢測的唯一實驗室。台灣農業化學品有毒物質研究所是經由農業委員會授權，檢測進口有機食品農藥含量的唯一檢驗機構。食品工業研究開發研究所是農業委員會對進口有機食品中是否含有不被允許的食品添加劑進行檢測的唯一機構。

這些過往經驗確實給供應商及其國外總部同仁帶來困難，因為無法及時理解測試方法或是規定等細節，因此，甚至進一步拖延與台灣市場的貿易交流。

1.4 在制定新法規時，應考慮實務的考慮及方法

食品藥物管理署近期公布了要求食品業者，包括進口業者，對其產品實施週期性檢驗的相關規定。雖然其立意良善，但其實施方法卻產生了一些疑慮。在其網站的問答集中，非法規的本身，食品藥物管理署規定只有台灣本地的檢驗單位所產生實驗報告才能符合前述的檢驗要求。對於跨國公司總部或外國供應商所提的檢驗報告，在其問答集中認為不符合比例原則及可行的，其理由為這些報告的單位與台灣食品業者並不「同一實體」。
囊狀食品」的方式管理。「輸入膠囊錠狀食品」甚至需要預先審查,確認為一般食品,方能進口台灣。如果某些成分屬於非傳統性原料,則需要額外的審查,才能進口。審查程序中,食品藥物管理署需要進口人提供成分規格表,產品名稱和製造商資料,等。如果前項資訊有任何改變,則進口人必須重新申請。

然而,地方衛生單位在察看「膠囊錠狀食品」的時候,即使輸入時已經通過中央的食品藥物管理署查驗,
也不能保證符合地方市政府的標準,顯見中央與地方在此項產品標示的規定存在某些歧見,尤其對「輸入膠囊錠狀食品」產生不必要的困擾。我們敦請中央政府和地方市政府能有共同的法規解釋和執行標準,對於產品輸入時已經獲得批准的所有資料內容,應當獲得雙方的尊重。

膳食補充品對改善公眾健康和控制健保支出的貢獻早已普遍獲得認可。世界各國多正面看待膳食補充品並設立一套自主管理的機制,避免曠日廢時的預先審核管理系統。供應商應而能夠依據科學證據,提供消費者正確的產品健康功能訊息。世界衛生組織的國際食品法典委員會在2013年修訂「營養和保健宣稱使用準則」,支持全球各國之食品衛生單位參考產業界的需求,制定以科學為依歸的營養和保健宣稱準則供產業界使用。相對於台灣重要的貿易夥伴-美國,台灣更加嚴格管理健康相關產品的功能性宣稱。這造成一種奇特的現象,台灣消費者能輕易地在海外買到標示清楚、提供充分功能宣稱的膳食補充品,但在台灣卻不能。在美國,膳食營養補充品能有三種類型的宣稱,包括影響人體生理結構和機能為訴求的宣稱,促進人體身心健康為訴求的宣稱,以及改善營養缺乏疾病為訴求的宣稱。這三種宣稱均不需要美國聯邦食品藥品監督管理局的上市前審核,但要求產品供應商負起舉證的責任,並於上市後30天內報備主管機關。在日本的機能保健食品中,有一自主管理的系統管理「Self-determined Function Claims」,要求食品公司需依據科學,驗證功能宣稱的真實性和安全性。消費者能在政府的網站上檢視產品宣稱相關的訊息。美國和日本都重視業界自主管理的成效,並尊重消費者對膳食補充品知的權益,尤其開放健康效能資訊方面。很可惜台灣不像美國和日本,產業界能透過政府的系統向消費者展示膳食補充品產品宣稱的科學證據。在台灣,某些宣稱涉及特定生理功能、五官臟器健康、改變身體外觀或改善營養不良相關疾病者,並不能像在美日等國一樣被主管機關接受。本委員會呼籲衛生福利部建立一套專門管理膳食補充品的項目,師法美國或日本,尊重消費者知的權益,消費者能充分得到膳食補充品的健康功能相關訊息。永續發展委員會

本委員會呼籲,台灣環保署應盡速通過可紙漿或木材原料經國際永續環保、負責任森林管理機制認證的家庭用紙產品,將其納入現行家庭用紙類別環保標章範疇,以迎頭趕上國際森林管理最新環保趨勢—透過嚴謹負責任的驗證制度,致力減少熱帶雨林非法濫伐或不肖組織因商業利益將原始森林轉化為非森林用途的作法;以有效保護森林生物多樣性、並降低溫室氣體排放。

於此同時,台灣政府為促進“循環經濟”所作之努力,包括通過銀行提供財務資源,令我們委員會感到鼓舞。我們鼓勵政府採取進一步的詳細行動,如
1) 要求公共建設需採用最低比例的建築材料需採用“回收材料”;
2) 擴大綠色融資平台,鼓勵發行綠色債券。

建言一: 提增修訂現行家庭用紙環保標章,將紙漿原料規範全面延伸至獲得國際公信力永續森林管理機制認證之原生紙漿製成的紙漿產品。

在全球致力降低溫室氣體排放的種種努力中,從森林源頭推動永續、負責任的管理驗證機制已廣泛獲得全球各國政府、企業、與非營利組織的支持與響應。以台灣而言,約99%的紙漿、木材原料全由進口而來,其中大多數來自已非法濫伐聞名或數量森林被不當轉化為非森林用途的東南亞國家。有鑒於此,本委員會疾呼,環保署應加速修正現行家庭用紙類別環保標章規範,改採雙軌制,以公平的角度看待再生紙類產品,與經由第三方驗證機構依據國際具公信力永續森林管理機制,如FSC森林管理委員會所認證的原生紙漿產品的環保價值。本委員會自2010年起即已持續提出此一倡議,但迄今進展頗令人失望。

針對永續森林管理議題,目前國際上許多國家的紙類用品環保規範都採納雙軌制,亦即同步承認從源頭把關、通過永續責任國際森林管理機制認證之原生紙漿產品,與經由回收原料再生製成的產品,例如紐西蘭與新加坡的環保標章。除此之外,美國綠建築委員會(USGBC)於2013年亦針對其綠建築評分認證系統第四版(LEED V4)進行重大修正,進一步提高綠建築物的得分標準,包括限定在建築物內所使用的拋棄式衛生用紙產品必須是FSC驗證產品或經其他綠建築委員會核可的國際標準驗證。故無論就永續發展或經濟成長面向來看,天然資源的可再生性都變益發重要,使用可回收物質已非降低家用紙品環境影響的唯一途徑。事實上,由於木漿纖維無法毫無止盡地回收再利用,因此持續讓通過國際永續森林管理認證的原生紙漿加入生產製造流程中是絕對必要的。再者,台灣自1990年起即開始採行森林禁伐規範,國內幾乎全數的紙漿與木材原料都是進口而來,但我國針對進口紙漿纖維是否來自永續認證與負責任管理的森林卻毫無規範。

台灣現行做法顯然與國際永續林木環保潮流背道而馳,因為愈來愈多已開發國家/地區均實施嚴格法令,以杜絕所有非法林木紙漿纖維產品進入國土,例如美國雷斯法案、歐盟木材法規(Forest Law Enforcement, Governance and Trade)以及澳洲非法伐木禁制法案等,這些法案皆在支持合法木材貿易,並杜絕以非法木材紙漿原料製成的產品進入市場。但根據台灣林業試驗所副所長、暨台灣大學森林環境暨資源學系副教授邱祈榮的長期研究估計,24%-31%台灣進口的原木與製材有可能來自於未經永續森林管理體系認證、且非法伐木情況頻傳的東南亞地區。2015年,包括新加坡、馬來西亞、印尼與泰國等東南亞國家飽受霾害之苦,這些霾害肇因於印尼蘇門答臘與加里曼丹等島嶼盛行不環保的刀耕火種（焚林）式農作法,根據報導,東南亞地區有14萬人因受霾害影響造成呼吸道不適疾病。對於霾害的龐大影響,新加坡環保委員會(Singapore Environment Council)進一步
加嚴其環保標章規範，全面排除非法采伐森林之製品及標章不全的製品規範，並於二○一七年一月一日抵接類產品環保標章將有限定改為符合FSC森林管理委員會規範的產品。

有關上述之環保考量，本委員會請環保署持續修定現行家庭用紙類租賃家品環保標章，將其延伸適用至獲得國際公信力永續森林管理系統系認證的原生紙張家庭用紙產品。

第三章 建築

第四章 綠色金融

第五章 稅務

第六章 法規

第七章 建築

第八章 綠色金融

第九章 稅務

第十章 法規

加嚴其環保標章規範，全面排除非法採伐森林之製品及標章不全的製品規範，並於二○一七年一月一日抵接類產品環保標章將有限定改為符合FSC森林管理委員會規範的產品。

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科技委員會

科技委員會持續著重鼓勵臺灣在已成功建立的既有強大製造基礎上，調適接納多元且創新的尖端技術。本委員會檢視臺灣科技業所面臨的主要挑戰和機會，針對我們深信是臺灣在區域內維持科技領先地位所不可或缺的數個關鍵領域，提出概要說明。這些議題與建議簡述如下：

A. 台灣應在既有的強大製造基礎上，持續著重發展並擁抱多元且創新的尖端技術。
B. 基於臺灣政府日漸重視科技新創事業的重要性，臺灣如何與全球新創事業生態系統連結是一個相當重要的全國政策議題。本委員會對國發會等政府機關近來致力於促進新創事業發展深表讚許，包括創立多支創投基金、支持數家創業加速器，以及設立“臺灣新創事業競技場”等。
C. 此外，勞動部最近放寬臺灣科技企業聘雇外國人的限制，科技委員會也予以肯定。
D. 劳動基準法只允許雇主與勞工在明訂的例外情形下簽訂定期勞動契約。此政策的原始用意是為了保護勞工權益，卻對科技新創事業構成阻礙，因為科技新創事業在設立初期尤其需要依據研發進程調整僱員人力，而研發進度與發展非常難以預測。
E. 如前言，政府已於去年就外籍白領人才來台就職於臺灣公司的工作資歷與最低薪資的門檻上有所放寬，但這些初步的放寬並非根據實質需求，如依研發進度彈性來僱用人才，進而無法滿足科技新創事業的需求。我們再次呼籲政府就延攬外籍科技白領的門檻上予以進一步檢討並放寬。
F. 公司營收若未達到稅收的最低標準，常會受到稅務機關強大的稽核壓力。然而科技新創事業通常在研究發展、產品開發和市場滲透方面需要長時間的努力，而且技術創新進程常常不受預期，因此這些初步的放寬並非根據實質需求，如依研發進度彈性來僱用人才，進而無法滿足科技新創事業的需求。我們再次呼籲政府就延攬外籍科技白領的門檻上予以進一步檢討並放寬。
G. 放寬外籍工作許可對外國科技新創事業的吸引力，本委員會提出以下建議：
   a. 放寬新創事業在臺登記時限的限制，依據現行法令，外國事業只能以有限公司、股份有限公司等臺灣認可的事業型態在臺設立分公司。此限制排除許多外國常見的投資型態，如一般合夥、有限合夥、有限責任合夥、商業信託、法定信託等，導致臺灣錯失許多投資機會。
   b. 驗證公司章程中對於股東權利與限制之條款。在科技新創事業相當普遍的美國與其他國家，股東們通常可自行協商股東權益條件，不同的股東會因其投資時間、投資價格及其他因素而享有不同的權利。臺灣法律並未明確規定臺灣公司的股東對於不同股份得享有何種不同的權利或受到何種不同的限制。
   c. 放寬外資事業聘用外國人擔任主管之限制，台灣現行僱用外籍人士相關法規規定，外資事業若要聘用外國人出任經理或主管，須符合以下條件：(1)實收資本額或在臺營運資金達新臺幣五十萬元以上；(2)年營業額達三百萬臺幣以上、進出口實績總額達五十萬美元以上或代理佣金達二十萬美元以上。外資事業若要聘請外國人從事專業性或技術性工作、僱用一位以上的外國人或展延工作許可，所受限制更加嚴格。
   d. 放寬外籍白領人才來台就職於臺灣公司的條件。外資事業若要僱用外國人在任經理或主管，須符合以下條件：(1)實收資本額或在臺營運資金達新臺幣五十萬元以上；(2)年營業額達三百萬臺幣以上、進出口實績總額達五十萬美元以上或代理佣金達五十萬美元以上。外資事業若要僱用外國人在任經理或主管，須符合以下條件：(1)實收資本額或在臺營運資金達新臺幣五十萬元以上；(2)年營業額達三百萬臺幣以上、進出口實績總額達五十萬美元以上或代理佣金達五十萬美元以上。外資事業若要僱用外國人在任經理或主管，須符合以下條件：(1)實收資本額或在臺營運資金達新臺幣五十萬元以上；(2)年營業額達三百萬臺幣以上、進出口實績總額達五十萬美元以上或代理佣金達五十萬美元以上。外資事業若要僱用外國人在任經理或主管，須符合以下條件：(1)實收資本額或在臺營運資金達新臺幣五十萬元以上；(2)年營業額達三百萬臺幣以上、進出口實績總額達五十萬美元以上或代理佣金達五十萬美元以上。
商議到一定規模後才能獲利。在設立初期數年沒有獲利可能完全無法實現目標對公司的長期規劃，並非立刻逃離財務

h. 吸引創投事業來臺投資，以增加資產價值。臺灣需採取措施設計親美的創投事業在臺投資，無論是外國或本地的創投事業，都是新創事業發展的重要支撐。南韓與臺灣更積極同意於許多具規模的創投事業在韓國設立。

i. 培育和留住人才。要將臺灣打造成區域高科技中心，須同步推動國際技術與本土科技事業，而關鍵就在於延攬適當人才。臺灣若能採取開放且具有彈性的聘僱政策，進一步鬆綁移民限制，並強化高等教育體系，將有助於吸引更多優秀人才。

b. 本委員會呼籲政府採取具體改善措施，將臺灣轉化成為對科技企業和新創事業更友善的環境。

c. 根據目前勞基法規定「雇主應置備勞工出勤紀錄，並保存五年」，此項規定對於傳統勞動型態之員工，例如製造業生產線作業員，或可適用，但對科技業從業人員而言，執行上困難重重。以研發人員為例，開發工具多已雲端化，工作不再侷限在辦公室，可以是任何地點。並且，創意的產生，也可能在靈光乍現的任何時間；再以緊密的跨國合作為例，會議聯繫隨著通訊技術的發達可用電話會議、視訊會議頻繁地與在不同時區的客戶、供應商或同事人員間進行。以成果導向為績效評量的方式已在先進國家普遍採行。企業提供員工工作自主權，包括彈性工作時間和地點已成趨勢。在提倡創意及專業工作倫理的前提下，企業願意由員工決定工作的時間、地點跟工時長短，只要工作能圓滿達成。

c. 進行定期勞動契約相關限制對新創企業造成的困難，本委員會建議應放寬定期勞動契約工作時間最長至三年，以提供科技業所需的人才需求彈性。

d. 近年來智慧國家概念在各國逐漸興起，臺灣需著重發展科技應用，以期能為臺灣帶來新的成長動能。許多科技公司雇用派遣人員提供企業快速且彈性的需求，目前草案中限制派遣勞工為「勞動力百分之三」，新創微型企業往往不能負擔大量派遣人員。本委員會建議應對產業別屬性研議，而非一體適用。
產業優先議題

東北亞的國家，則設有資通訊科技與未來部，而中國則有工業信息部。台灣則因在行政院層級缺乏專職單位，以至於很难統整跨部會資訊相關政策與措施。

由於中央沒有專職機構來規劃政府資訊應用方向、標準，或編列合理資訊應用預算，造成民間承攬政府資訊服務之產業往往面臨預算不足、需求經常變更而無所適是。由於政府是國家資訊服務產業最大客戶，因此上述現象也是造成我國資訊服務產業難以振興之主要原因。

我們認為在立法院審議中的資訊長相關草案，將可協助台灣政府建立與上述鄰國類似之政府資訊專職組織。因此建議台灣政府能盡快通過該法案之審議，設立中央層級之專職資訊長，發揮中央跨部會影響力，充分運用資通訊科技來協助政府加速實現5+2政策，帶動我國資訊服務產業能量。同時，我們也建議政府能參照已開發先進國家，重視資訊科技，導引各部會編列足夠之資訊人力與預算，加速台灣政府本身之數位轉型。

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，以及可透過較低的成本，達到更高安全性。最重要的是可以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優先公共事務。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。目前推動之“政府公開資料”政策，更可以透過公有雲來吸引國際開發人員利用台灣政府公開資料，研發新服務與商業模式。

在導入雲端運算過程中，政府機密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，其中每一個等級皆配有具體的技術保障和存取方案建議。如下所述的框架，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，在適度安全控管與雲端技術設置下，將適合放置於雲端空間，享受雲端服務所帶來的各種好處。

### 資料分級

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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，將能將得到雲端運算之最大效益。根據需求或特性進行資料分級，並充分了解其相關需求或技術的解決方案，將有助於政府迅速過渡到雲端服務之新資料儲存形式。

目前國際趨勢建議政府應根據政府部門或機關需求，制定合適的政策和做法。台灣政府可能因為囿於現有限制，無法推動上述資料存取政策。我們認為政府應盡快通過相關法案，以確保台灣政府能夠迅速過渡到雲端服務之新資料儲存形式。
列出關鍵基礎設施的範圍，確保外商在台權益不因此遭到侵害，減低業界對資通安全管理法草案的疑慮；國家通訊傳播委員會對於有線電視系統業者之基本頻道及其類型、收費項目、费率、審查程序及其公平競爭等問題，亦應盡速介入相關規劃作業。

電信及媒體委員會

本委員會感謝國家通訊傳播委員會(NCC)與交通部對台灣電信及媒體產業發展對於4G頻譜的釋出並建構數位通路的產業環境之支持，但是因應網路成長而所出現的新媒體環境，我們鼓勵政府能夠解除對有線電視系統業者之基本頻道及類型、收費項目、費率、審查程序及其公平競爭等問題之公平競爭，確保新法之法規遵循能有明確的遵循原則。

建議一：修改著作權法，採行境外侵權網站封鎖措施

數位科技的快速發展對受智慧財產權保護的著作的重製與傳輸方式產生重大衝擊，結果導致過去兩年間，台灣網路的著作權侵權案件日益普遍，尤其是台灣境外經營與主機代管網站的著作權侵權行為。因此，本委員會建議著作權法新增第84-1條，規定如權利人無法辨識目標網站的負責人而欲提出保全處分時，僅須於申請書中載明侵權網站的IP地址及/或網域名稱即足。除此之
外，於終局判決前的訴訟程序期滿時，假如有權利人未接獲通知書，應於十日內提起新訴，嗣後，於終局判決前停止目標網站的侵權行為。

國家通訊傳播委員會於2016年5月26日公告「有線電視系統業者申請無線電發射設備執照須知」，其中明文規定申請無線電頻率發射執照，應具備有線電視系統業者之基本頻道及類型，收費項目、費率、審查程序及其公平競爭等問題。國家通訊傳播委員會對於有線電視系統業者之基本頻道及類型、收費項目、費率、審查程序及其公平競爭等問題，亦應盡速介入相關規劃作業。

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同提供消費者多元的收費服務，爰此在符合公平交易法令的前提下，主管機關應將費率決定權交由有線電視系統業者、OTT業者、IPTV業者及其它新型態平台業者，由市場機制決定其應有合理費率價格，不應予以規範。

建議三：解除有線電視費率管制

台灣現行有線電視費率係1990年時，有線電視於各經營區終端市場時引進。費率管制的合理性在於消費者對於視訊服務沒有其他選擇性，因此有必要對消費者權益加以保護。然多年來，市場業已產生巨大變化，出現多種視訊服務如有線電視、IPTV、OTT等，提供消費者多重選擇，且有線電視服務也已不再是市場主導者。屆至2016年底，台灣視訊服務市場共有超過133萬IPTV訂戶，約佔520萬有線電視訂戶20%，以及數量未知的OTT訂戶。於美國，如果視訊服務提供者之間存在有效的競爭，由於消費者可以在各種類型的服務中進行選擇，即無須進行費率管制。基於相同的考量，NCC應重新考慮費率管制的必要性，如果台灣視訊服務提供者之間存在有效競爭，則應解除費率管制規定。

1990年將有線電視費率訂為每戶收費上限新台幣600元，即便自1990年以來消費物價指數持續上漲，但有線電視費率上限卻從未進行調整，此一不合理的費率上限嚴重阻礙有線電視、衛星頻道供應者和內容提供商的發展。爰此，我們強烈建議，NCC應完全免除或提高費率上限，以反映過去27年來物價指數的上漲。

此外，現行有線電視之收費，係以戶計費，而非以數位機上盒計費，此種收費結構對收入較低的家戶極為不公平，蓋一個擁有10台電視的富裕家庭，與一個只有一台電視機的貧困家庭收取相同的費用，形成貧困家庭補貼富有家庭有線電視費用的不公現象。2018年底台灣有線電視普及率即將達到100%，有線電視業可輕易將收費方式由以戶計費改為以機計費。為了社會公平，我們相信NCC應該修改有線電視費率規定，許可有線電視業以機計費，取代以往以戶計費的收費方式。

交通運輸委員會

隨著執政內閣進入第二年，本會委員會期待與本會產業最密切的交通部與財政部，其政策可以持續進行。同時，我們也密切關注由行政院公告的新版行政程序法，特別是針對國際貿易產生衝擊的新法規和立法的60天預告期。由於大部分法案都具有長遠影響，本會將積極審視各不同部會遵守此政策的程度，並視其為當前最重要的工作之一。

以下是我們所關切的議題與建議事項:

建議一：建立有效的統一通關平台以促進海關通關法透明與效率

在2016年本會委員會的白皮書中，我們要求建立通關單位統一通關平台，以促進通關透明化，增進通關效率。雖然行政院為了增進人民對於國際貿易的了解與便利等計畫的推展而設置的新的預告制度，然而根據我們幾年來的經驗，此建議在去年中並未被明確有效的正視，這同時也反應60天預告制度的必要性，更顯示了增加預告期限將使此缺點獲得改善。

除此之外，在去年行政院通過的關稅法修正案中規定，將更嚴格管制在第二次預告期間進口人（詳見如建議2.1）；但在修正案送入立法院後，將有相當多的機會能讓相關商業團體得以在如何在28天內要及時間便捷與海關組織所倡議的自由貿易精神下實行與海關進行意見交換。而60天預告期內也沒有任何公聽會舉行，僅有於行政院公告的新版行政程序法，特別是針對國際貿易產生衝擊的新法規和立法的60天預告期，由於大部分法案都具有長遠影響，本會將積極審視各不同部會遵守此政策的程度，並視其為當前最重要的工作之一。

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建議三：取消空運與快遞貨棧進出口區隔規定

台灣法規規定空運與快遞貨棧需要實體區隔來區分進出口通關作業，這項限制降低了業者的效率與倉庫空間的最佳化運用。本會委員會要求修改此一規定，允許倉棧業者得以在沒有實體區隔進出口通關作業的規定下自行管理作業。相對的，海關得透過監控系統與抽查等方式進行必要的管理，使得倉棧業者得以增加空間的利用，符合現代倉棧的管理模式。目前沒有其他已開發國家對倉棧實行像台灣海關現行的類似限制。

建議四：取消汽車運輸業車輛資格規定

根據公路法，汽車運輸業車輛資格規定之車輛運輸業車資格規定，任何汽車運輸業，包含租車業與快遞業等等，需檢附車輛總數八分之一的停車場使用證明。正因為在市區難以取得足夠合法的停車空間，因此准許汽車運輸業在營運地市區外租用場地。
在此政策之下，許多公司被迫租用與提供從未使用的外地停車場，部分甚至不清楚其所在地點。這個制度不但沒有達到改善城市停車問題的目標，而且造成經營者不需要的費用支出，此作法僅對被授權停車場的提供者與中介商有利。本委員會敦促政府修改公路法與相關法規去除此一繁重的限制，解決這個問題將能有效的改善快遞業，租車公司和其他擁有大型車隊經營者的投資環境。

觀光局持續與本委員會保持密切聯繫，對於我們關心的議題及我們對台灣觀光旅遊產業提出的建議也高度關注，我們謹此對觀光局表示誠摯謝意。我們很高興得知台灣政府近日提出「Tourism 2020 — 台灣永續觀光發展策略」，藉由台灣獨有的在地觀光資源，進一步提升台灣觀光產業的國際競爭力。本委員會願意與觀光局及立法院認真思考提高觀光局位階為中央二級機關的可行性。本委員會今年提出下列的三項建議，皆與台灣觀光產業的發展息息相關。此外，我們認為，如果政府希望積極打造台灣成為亞洲的重要觀光勝地，絕對有必要提高觀光產業主管機關的位階，並大幅增加推廣觀光旅遊產業的行政資源。我們了解，行政院組織改造計畫中的「交通及建設部」組織法草案，目前仍在立法院審議中，我們建請行政院及立法院認真思考提高觀光局位階為中央二級機關的可行性。本委員會期待與台灣觀光局及其他相關政府單位持續保持密切聯繫，共同為提升台灣觀光產業而努力。

觀光局近期針對「觀光旅館業與旅館業及民宿個別旅客直接訂房定型化契約應記載及不得記載事項」修正了部分條文，其目的係為了保障旅客在取消訂房時之權益。然而因國際飯店，本地飯店及民宿的經營型態不同，若皆遵循相同條例時會衍生許多契約適用上的問題。依循全球慣例，國際飯店一般不收取訂金，若逾預定入住前24小時後取消訂房才會收取一晚房價，其較於本地飯店和民宿,國際飯店之取消訂房措施對顧客較有利。惟國際飯店在淡季推行早鳥或促銷方案時,因價格較低才會要求旅客預付全額訂金且不得退款。若客人購買早鳥優惠方案後取消且要求退款，則會對支付一般全額價格之客人不公平，同時讓國際飯店無法順利執行他們的全球訂價策略。航空公司在推行特價機票時會附加某些限制,例如:不得退票,改期或取消須收取額外費用。只消消費者在訂購機票時明白此條款,在退票或改期時即須遵守。產品價格之訂立係依循市場供需機制。國際飯店的銷售慣例亦同航空公司。國際飯店在推行特價之商品時也同時推行一般價格沒有特殊限制之商品，消費者在面

在中國大陸觀光客自2016年起大幅降低，而且可能持續減少。為此，政府推出觀光推廣策略，將目標市場轉向日本、韓國、東南亞及南亞等地區。在考量新策略推動和目標市場，重塑台灣觀光推廣的品牌有其必要性且恰逢其時。若持續以(Heart of Asia)作為台灣的品牌標語不但過時且不切實際，因為多數的亞洲國家也同樣視為亞洲的樞紐，因此必須找到更有效的方法，創造能產生共鳴且有效反映出台灣核心價值的觀光推廣訊息，傳遞至新目標市場。台灣集現代與傳統於一身，台灣的魅力在於現代高效設施為觀光客帶來的舒適與便利，以及在生活各層面展現的友善態度與文化傳統。台灣是具有獨特多樣性的觀光勝地，適合閩南、客家、原住民、中國及日本等文化。台灣的魅力在於美麗的山巒、海岸及其它自然景色，還有親切友善的居民、美食小吃、在亞洲數一數二動物園內飼養的貓熊、具歷史意義的鐵路、絕佳的自行車道與登山步道、令人驚豔的潛水環境、雄偉的新舊廟宇，以及全球最豐富的中國古物收藏。台北捷運、高鐵、獨特的觀光列車和巴士及大規模的高速公路網都是絕佳的交通選擇，也讓觀光變得輕鬆又方便。最棒的是，台灣沒有一些其他亞洲觀光勝地所面臨的街頭犯罪、宗教關係緊張及政策不定等問題。如何將台灣的強項與特色轉化為重要的觀光推廣訊息與標語是項挑戰。此項任務需交付給徹底了解台灣與其魅力的品牌專家，藉由他們的專業能力與經驗，向全球展現台灣作為令人嚮往之觀光勝地的全新品牌形象。
3. 運用享譽全球的流行音樂作為宣傳活動的背景歌曲。例如：Justin Timberlake的【愛情從未如此美好】（Love Never Felt So Good）。

4. 進行大型宣傳活動，旨在2020年將觀光產業對國內生產毛額（GDP）的直接與間接貢獻從目前的3.5%提升至7%，並將觀光人數從2016年的1000萬人提升至2020年的1300萬人。

建議三：讓台灣敞開大門歡迎自由行旅客

旅遊與觀光對於台灣經濟的重要性無庸置疑，但事實上還能貢獻更多。除了之前所提及的國內生產總值與旅客人數外，光是觀光旅遊這一部分，就直接及間接提供了66.95萬個工作機會，相當於台灣總就業人口的5.8%。世界觀光旅遊委員會（WTTC）預估在2017年，這數字還會再上升3.8%，並在2027年時達到81.4萬個工作機會，也就是台灣總就業人口的7.4%。此外WTTC也預估，到2027年時，來台外國遊客的年度消費支出總額，將從目前的新台幣5420億（約美金178億），提高到超過新台幣7220億（約美金237億）。然而，台灣在WTTC各項報告中，排名遠低於鄰近其他國家，例如在全球185個國家地區的未來長期成長預測中，台灣只排名第173位，顯示仍有相當大的成長空間。因此，改善並加強旅遊觀光，將對台灣經濟各方面皆有所幫助。

過去來台觀光的旅客以團客為主。當然，團客操作有其優勢（包括可預測的需求、旅客素質平均化、規律的模式等），但也存在一些缺點，例如說，國內還有太多地方景點是團客不會造訪的，因此，變成只有極少部分的企業（例如大型飯店等）可真正從中獲益。另外就是目標旅客過度單一化，當國內旅遊過於依賴中國團客時，若遇到兩岸關係惡化，台灣的觀光旅遊業就會受到嚴重影響與傷害。

在這種情況下，外國自由行旅客就顯得更加重要。台灣若能在這方面加倍努力，讓更多外國自由行旅客造訪，就能進一步與國際旅遊市場競爭。然而，最重要的是，還要體認到，滿足自由行旅客的需求，遠比滿足團客困難得多，因為自由行旅客無論是條件型態、目的與需要，都更加多樣化。

對於吸引來台自由行散客，有些重要議題應加注意：

1. 網際網路：自由行散客比團客更重度依賴網路，然而在台灣，要買張SIM卡及手機上網流量包，以便能夠走到哪通到哪，可能沒這麼容易。
2. 資訊障礙：許多外國自由行散客可能不懂中文，但在台灣，他們會接觸到的當地人也不會講其他語言，在溝通上有其困難。
3. 離開台北市區後，交通及行程規劃上，難度就提高許多。
4. 缺乏足夠資訊：觀光當局往往依靠在機場或是觀光局、觀光中心發放觀光手冊及優惠券來行銷，但是大部分的自由行旅客，並不見得會特地去參加這些活動。
5. 在多方面及領域上，台灣仍欠缺國際典範實務經驗。因此，我們建議以下幾個步驟來解決這些問題：

1. 依照國際上典範實務經驗，提供包括不可退款的優惠房價、私人房宅的短租、培訓世界一流專業旅遊人員等，讓旅客可以依照本身需求，擁有更多自由選擇。
2. 提供方便且便宜的SIM卡與上網流量包，尤其是在機場，讓外國旅客可以容易購買使用行動上網。
3. 確保機場、計程車及其他大眾交通工具均可使用信用卡及其他新型態無現金付款方式。
4. 更廣泛推廣英語教學，讓更多台灣人可以使用雙語溝通。
5. 數位整合行銷，讓台灣各地的觀光景點，尤其是花蓮太魯閣、日月潭、墾丁等地，成為世界觀光客的首選。
6. 旅展的宣傳重點逐漸轉移到網路行銷上，觀光當局更應與網路業者，尤其是國際網路旅行社等，建立起良好合作關係，以協助將台灣各地與各式住宿讓更多旅客認識與選擇，從而吸引更多來自不同國家的旅客來訪。

這當中有一些步驟是可以快速達成的，其他部分則需要更多時間。但是，台灣若想提高觀光收入，增加國際能見度，就應該要把整個格局做大，而所帶來的利益，絕對值得投資的。

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