

# Taiwan

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RISK & COMPLIANCE REPORT

DATE: March 2018

**Executive Summary - Taiwan**

<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	Offshore Financial Centre Weakness in Government Legislation to combat Money Laundering Not on EU White list equivalent jurisdictions
<b>Medium Risk Areas:</b>	US Dept of State Money Laundering assessment Compliance with FATF 40 + 9 Recommendations Failed States Index (Political Issues)(Average Score)

**Major Investment Areas:**

**Agriculture - products:**

rice, vegetables, fruit, tea, flowers; pigs, poultry; fish

**Industries:**

electronics, communications and information technology products, petroleum refining, armaments, chemicals, textiles, iron and steel, machinery, cement, food processing, vehicles, consumer products, pharmaceuticals

**Exports - commodities:**

electronics, flat panels, machinery; metals; textiles, plastics, chemicals; optical, photographic, measuring, and medical instruments

**Exports - partners:**

China 27.1%, Hong Kong 13.2%, US 10.3%, Japan 6.4%, Singapore 4.4% (2012 est.)

**Imports - commodities:**

electronics, machinery, crude petroleum, precision instruments, organic chemicals, metals

**Imports - partners:**

Japan 17.6%, China 16.1%, US 9.5% (2012 est.)

**Investment Restrictions:**

Taiwan maintains a "negative" list of industries closed to foreign investment for security and environmental protection reasons, including public utilities, power distribution, natural gas, postal service, telecommunications, mass media firms, and air and sea transportation. These account for less than one percent of manufacturing categories and less than five percent of service industries. Railway transport, freight transport by small trucks, pesticide manufacture, real estate development, brokerage, leasing, and trading are all open to foreign investment.

While most foreign ownership limits have been removed, the foreign ownership limit on wireless and fixed line telecommunications firms is 60%, including a direct foreign investment limit of 49%. State-owned Chunghwa Telecom Co., which controls 97% of the fixed line telecom market, maintains a 55% limit on indirect foreign investment and a 49% limit on direct foreign investment. There is a 20% limit on foreign direct investment in cable television broadcast services, but foreign ownership of up to 60% is allowed through indirect investment via a Taiwan entity. Foreign investors control one of the five largest cable TV networks in Taiwan. In addition, there is a foreign ownership limit of 49.99% for satellite television broadcasting services and piped distribution of natural gas, and a 49% limit for high-speed railways. The foreign ownership cap on ground-handling firms, air-catering companies, aviation transportation businesses (airlines), and general aviation business (commercial helicopters and business jet planes) is less than 50%, with a separate limit of 25% for any single foreign investor. For Taiwan-flagged merchant ships, foreign investment is limited to 50% for Taiwan shipping companies operating international routes.

Taiwan has been gradually relaxing restrictions on investments from the People's Republic of China (PRC, or "mainland" China) as cross-strait relations have improved. Since 2009, Taiwan has eased restrictions on investments from mainland China in three stages. Most of Taiwan's manufacturing industry and half of its services and public construction sectors are now open to mainland investment. However, due to restrictions limiting percentage of ownership, and restrictions on mainland investors' participation in Taiwan business operations, investment liberalization to date has not drawn significant interest from mainland investors. Taiwan is planning the fourth stage of investment liberalization, expected in early 2013, and progressing towards the goal of normalization of cross-strait investment ties through a negative list to be developed in the near future.

In 2009, Taiwan launched the first phase of opening up to Chinese investment. Under the new policy, "Regulations Governing Permission for People from the Mainland Area to Invest in Taiwan," Taiwan has opened 64 sectors in manufacturing, 117 in services, and 11 in public construction. In order to own shares in a Taiwan company or establish a presence in Taiwan, mainland entities and foreign companies in which mainland entities have over 30% shares must first obtain permission from the interagency Investment Commission (IC) housed in the Ministry of Economic Affairs (MOEA). The Taiwan authorities may also prohibit or restrict investment from mainland Chinese enterprises that: (1) have military shareholders or have a military purpose; (2) would create a monopoly; (3) would threaten national security, or; (4) would negatively impact domestic economic development.

In the second round of investment liberalization, Taiwan announced in 2011 an additional 42 categories, including 25 sectors in manufacturing, eight in services and nine in public infrastructure, which would be open for investment from mainland China. The manufacturing categories include medical devices, machinery for making metal products, and petrochemicals. In March 2012, Taiwan announced a third tranche of relaxed restrictions on mainland investments. As a result, Taiwan has opened more than two-thirds of Taiwan's aggregate industrial categories, excluding agriculture, to PRC investors, with manufacturing topping the list, in which 97 percent of the sector is now opened to Chinese capital. In the public construction and service sectors, investment opened to PRC investors expanded to 51 percent. Mainland Chinese investors, however, continue to be prohibited from serving as a Taiwan company's CEO, although a mainland Chinese board member may retain management control rights of a Taiwan company.

Reports indicate that in the fourth round of liberalization of Chinese investment in Taiwan, MOEA plans to remove prohibitions on Chinese ownership of controlling stakes in seven key industries, including the light emitting diode (LED), integrated circuit assemblies, semiconductor manufacturing equipment, semiconductor packaging and testing, metal cutting tool machines, and solar batteries. MOEA proposes to impose a shareholding ceiling of 50 percent for Chinese investment in companies in these industries, and retain the mechanism for screening investment applications on a case-by-case basis. The MOEA proposal is subject to the Executive Yuan's (EY) final approval.

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## Section 1 - Background

In 1895, military defeat forced China's Qing Dynasty to cede Taiwan to Japan. Taiwan came under Chinese Nationalist control after World War II. Following the communist victory on the mainland in 1949, 2 million Nationalists fled to Taiwan and established a government using the 1947 constitution drawn up for all of China. Beginning in the 1950s, the ruling authorities gradually democratized and incorporated the local population within the governing structure. This process expanded rapidly in the 1980s. In 2000, Taiwan underwent its first peaceful transfer of power from the Nationalist to the Democratic Progressive Party. Throughout this period, the island prospered and became one of East Asia's economic "Tigers." The dominant political issues continue to be the relationship between Taiwan and China - specifically the question of Taiwan's eventual status - as well as domestic political and economic reform.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF status

Taiwan is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

### Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Taiwan was undertaken by the Financial Action Task Force (FATF) in 2007. According to that Evaluation, Taiwan was deemed Compliant for 7 and Largely Compliant for 18 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

### Key Findings from latest Mutual Evaluation Report (2007):

There is a strong focus on anti money laundering (AML) measures, but less emphasis on measures to combat the financing of terrorism (CFT) – evidenced primarily by the fact that terrorist financing is not yet criminalized.

The statistics provided reflect an increasing number of money laundering prosecutions with the number increasing each year for the last 4 years.

Drug seizures indicate a lucrative trade in illicit drugs in Taiwan. This is of some concern, given a lack of ML prosecutions arising from narcotics investigations.

Taiwan has various authorities that supervise the banking, insurance, futures and securities industries. The supervisory authority of the financial industry and creation of a single financial regulator (the Financial Supervisory Commission) was achieved through legislation that became effective in July 2004.

Taiwan had an established banking industry with assets of NT\$36,970.7 billion (USD 1,105.4 billion).

The Insurance industry has 24 non-life and 30 life insurance companies with premium income of USD 3,543 million and USD 43,474 million respectively.

In respect of the DNFBPs in Taiwan, casinos are outlawed; real estate (in 2004) recorded 727,537 transactions in land and 418,187 transactions in housing; jewellery shops play a major substitute role of financial institutions and exchange large amounts of money to foreign currency in addition to dealing in gems and gold; lawyers have broad scope of business and notaries exist in civil practice as well as within the court system; accountants number 2,398

(as at December 2005); all trust business is conducted by banks and as at December 2005 was USD 85.5 billion in size.

## US Department of State Money Laundering assessment (INCSR)

**No longer categorised a Jurisdiction of Primary Concern however the 2017 Report has not yet been published and, therefore, below is the 2016 report.**

Taiwan was deemed a Jurisdiction of Primary Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

### **Perceived Risks:**

Taiwan's modern financial sector, strategic location within the Asia-Pacific international shipping lanes, expertise in high-technology production, and role as an international trade hub make it vulnerable to transnational crimes, including money laundering, drug trafficking, telecom fraud, and trade fraud. Domestic money laundering is generally related to tax evasion, drug trafficking, public corruption, and a range of economic crimes.

Official channels exist to remit funds, which greatly reduce the demand for unofficial remittance systems; however, although illegal in Taiwan, a large volume of informal financial activity takes place through unregulated, and possibly organized crime-linked, non-bank channels. Taiwan has five free trade zones and a growing offshore banking sector, which are regulated by Taiwan's Central Bank and the Financial Supervisory Commission. There is no significant black market for smuggled goods in Taiwan.

***Do financial institutions engage in currency transactions related to international narcotics trafficking that include significant amounts of US currency; currency derived from illegal sales in the U.S.; or illegal drug sales that otherwise significantly affect the U.S.: NO***

### ***Criminalization of money laundering:***

***"All serious crimes" approach or "list" approach to predicate crimes:*** Combination approach

***Are legal persons covered: criminally:*** YES ***civilly:*** NO

### ***Know-your-customer (KYC) rules:***

***Enhanced due diligence procedures for PEPs: Foreign:*** YES ***Domestic:*** YES

***KYC covered entities:*** Banks; trust and investment corporations; credit cooperative associations; credit departments of farmers' and fishermen's associations; Agricultural Bank of Taiwan; postal service institutions that also handle financial transactions; negotiable instrument finance corporations; credit card companies; insurance companies, agents, and brokers; securities brokers; securities investment and trust enterprises; securities finance

enterprises and investment consulting enterprises; securities central depositories; futures brokers; trust enterprises; retail jewelers; and third party payment service businesses

**REPORTING REQUIREMENTS:**

**Number of STRs received and time frame:** 6,890: January - October 2015

**Number of CTRs received and time frame:** 4,107,745: January - October 2015

**STR covered entities:** Banks; trust and investment corporations; credit cooperative associations; credit departments of farmers' and fishermen's associations; Agricultural Bank of Taiwan; postal service institutions that also handle financial transactions; negotiable instrument finance corporations; credit card companies; insurance companies, agents, and brokers; securities brokers; securities investment and trust enterprises; securities finance enterprises and investment consulting enterprises; securities central depositories; futures brokers; trust enterprises; retail jewelers; and third party payment service businesses

**money laundering criminal Prosecutions/convictions:**

**Prosecutions:** 68: January - October 2015

**Convictions:** 7: January - October 2015

**Records exchange mechanism:**

**With U.S.: MLAT:** NO **Other mechanism:** YES

**With other governments/jurisdictions:** YES

Taiwan is a member of the Asia/Pacific Group on Money Laundering (APG), a FATF-style regional body.

**Enforcement and implementation issues and comments:**

Taiwan is not yet in full compliance with international standards. While Taiwan criminalizes the financing of terrorist activities, it is not an autonomous offense. There are also significant gaps in Taiwan's asset freezing regime and implementation of UNSCRs 1267 and 1373; deficiencies in customer due diligence (CDD) regulations, including in identifying and verifying customer identity; and the threshold for a serious money laundering offense is too high. The Money Laundering Control Act (MLCA) does not specifically provide for the civil coverage of legal persons. Furthermore, Taiwan's AML/CFT requirements do not apply to several types of designated non-financial businesses and professions (DNFBPs), which remain vulnerable to money laundering and terrorism financing activity.

The responsible agency governing jewelry stores is the Department of Commerce within the Ministry of Economic Affairs, and it is unclear if this department has the capacity to audit jewelry stores. The authorities are not keeping statistics on jewelry store-related money laundering cases.

In 2014, Taiwan assisted U.S. law enforcement authorities and agreed to freeze a bank account containing nearly \$16 million in illicit proceeds tied to a trade-based money laundering scheme in Los Angeles involving Mexican drug cartels and the importation of

garments and textiles into the United States. It was the first time Taiwan had facilitated a significant asset seizure as part of a U.S.-based criminal investigation.

The United States and Taiwan, through their respective legal representatives, are parties to the Agreement on Mutual Legal Assistance in Criminal Matters Between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States. There is no extradition treaty in force between Taiwan and the United States. Taiwan is unable to ratify conventions under the auspices of the UN because it is not a UN member. However, it has enacted domestic legislation to implement the standards in the 1988 UN Drug Convention, the UN Convention against Transnational Organized Crime, and the UN Convention for the Suppression of the Financing of Terrorism.

Taiwan should pass legislation to criminalize the financing of terrorism as an autonomous crime, clarify that the law covers terrorism-related activities conducted overseas, establish procedures to allow the freezing of terrorist assets without delay, and continue to address CDD concerns. Taiwan should exert more authority over non-profit organizations and should raise awareness of the vulnerabilities to terrorism financing of this sector. Taiwan should take steps to amend its legislation and regulations to bring all DNFBPs and the non-profit sector within the scope of its AML/CFT coverage. Proposed legislative amendments to Taiwan's MLCA address a number of these deficiencies, but remain only in draft form.

#### **Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):**

According to the US State Department, Taiwan does not conform with regard to the following government legislation: -

**Ability to freeze assets without delay** - The government has an independent national system and mechanism for freezing terrorist assets in a timely manner (including but not limited to bank accounts, other financial assets, airplanes, autos, residences, and/or other property belonging to terrorists or terrorist organizations)

**States Party to UN 1988 Convention** - States parties to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

**International Terrorism Financing Convention** - States parties to the International Convention for the Suppression of the Financing of Terrorism, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

**States Party to United Nations Transnational Organised Crime Convention** - States party to the United Nations Convention against Transnational Organized Crime (UNTOC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

**States Party to United Nations Convention Against Corruption** - States party to the United Nations Convention against Corruption (UNCAC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

### **EU White list of Equivalent Jurisdictions**

Taiwan is not currently on the EU White list of Equivalent Jurisdictions

### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

### **Offshore Financial Centre**

Taiwan is not considered to be an Offshore Financial Centre

### US State Dept Narcotics Report 2014 (introduction):

Taiwan is neither a major producer of nor a significant transshipment point for illicit narcotics. Continued aggressive law enforcement action targeting domestic production, coupled with enhanced surveillance of smuggling routes, decreased the availability of illicit drugs and diverted precursor chemicals in 2013. These supply reduction achievements in turn increased market prices for all categories of illegal drugs within Taiwan.

Continuing trends from previous years, seizures of most drugs declined with the exception of amphetamine-type stimulants (ATS) and MDMA (ecstasy), which increased by 537.8 and 11.2 kilograms (kg) respectively from 2012 levels. A growing problem in Taiwan, ketamine remains popular among teenagers as a party drug with perceived low potential for addiction and no criminal penalties for possession of small amounts (less than 20 grams). China is the source of approximately 76 percent of the ketamine seized or sold in Taiwan. ATS also account for significant drug usage; however, strong controls over purchases of legally produced precursor chemicals and aggressive efforts to identify and seize illegal drug factories have significantly decreased domestic production and international trafficking of ATS, through Taiwan. In early October, authorities seized 103 kg of heroin and 249 kg of ketamine originating from Vietnam – the largest heroin seizure in Taiwan drug enforcement history.

The Ministry of Justice (MOJ) leads Taiwan's counternarcotics efforts with respect to manpower, budgetary, and legislative responsibilities. The Ministry of Justice Investigations Bureau (MJIB), National Police Agency (NPA), Coast Guard, Customs Directorate, and Military Police contribute to counternarcotics efforts and cooperate on joint investigations, openly sharing information with the U.S. Drug Enforcement Administration and other Asia-Pacific law enforcement counterparts. Taiwan's undercover and electronic surveillance laws hamper law enforcement efforts to investigate drug cases while geographic challenges limit authorities' abilities to provide long-term witness protection.

Addiction is viewed primarily as a health issue, and efforts focus on treatment, rehabilitation, and support of recovered addicts. The criminal justice system offers users the option of voluntary long-term treatment in lieu of incarceration. Most prisons lack the infrastructure and resources to treat addicts, and the recidivism rate is high. Taiwan's inability to participate in the United Nations and other international organizations presents obstacles to its full involvement in regional and international counternarcotics efforts. However, Taiwan continues to forge relationships with other Asia-Pacific countries, including China, to exchange drug intelligence, resulting in drug seizures and arrests.

Although there is no bilateral extradition treaty between the United States and Taiwan, a mutual legal assistance agreement is in place, under the auspices of the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States, through which Taiwan regularly affords mutual legal assistance to U.S. counterparts.

### **US State Dept Trafficking in Persons Report 2014 (introduction):**

Taiwan is classified a Tier 1 country - is a country whose government fully complies with the Trafficking Victims Protection Act's (TVPA) minimum standards.

Taiwan is a destination for men and women subjected to forced labor and sex trafficking and, to a lesser extent, a source of men and women subjected to forced labor and of women and children subjected to sex trafficking. Most trafficking victims are migrant workers from Indonesia, the Philippines, Thailand, Vietnam, and to a lesser extent, individuals from China and Cambodia. Most of Taiwan's more than 587,000 migrant workers are hired in their home countries through recruitment agencies and brokers, some of which are from Taiwan, to perform low-skilled work as home caregivers and domestic workers, or in farming, manufacturing, construction, and fishing industries. Some migrant workers are charged exorbitantly high recruitment fees, resulting in substantial debts used by brokers or employers as tools of coercion to obtain or retain their labor. After recruitment fee repayments are garnished from their wages, many foreign workers in Taiwan earn significantly less than the minimum wage. Domestic workers and home caregivers are especially vulnerable to exploitation, since they often live in their employers' residences, making it difficult to monitor their working and living conditions. Brokers in Taiwan often assist employers in forcibly deporting "problematic" foreign employees should they complain, enabling the broker to fill the empty positions with new foreign workers and continually use debt bondage to control the work force. Documented and undocumented fishermen on Taiwan-flagged fishing vessels, mostly from China, Indonesia, and Vietnam, experience non- or under-payment of wages, long working hours, physical abuse, lack of food, and poor living conditions, which are indicators of trafficking. Women from China and Southeast Asian countries are lured to Taiwan through fraudulent marriages and deceptive employment offers for purposes of sex trafficking. There have been reports of men and women from Taiwan engaged in illegal business operations overseas that present indicators of human trafficking, as well as women from Taiwan being lured into forced prostitution in the United States.

Taiwan authorities fully meet the minimum standards for the elimination of trafficking. During the reporting period, authorities continued to prosecute trafficking offenses, including both forced labor and sex trafficking, trained law enforcement and other officials on trafficking indicators, took steps to make the system of direct hiring of employees without the use of brokers more accessible, promulgated interagency procedures for handling cases involving trafficking of foreign workers on fishing vessels, and raised public awareness of trafficking. There were, however, no arrests or convictions for trafficking violations on Taiwan fishing vessels. Prosecutors and judges continued to treat many cases involving trafficking indicators as lesser crimes and, in many cases, sentenced traffickers to lenient penalties not proportionate to the crimes.

### **Latest US State Dept Terrorism Report**

Taiwan is not a member of the United Nations and, therefore, is not subject to UNSC Resolutions and cannot join UN counterterrorism conventions and protocols. Nonetheless, Taiwan sought to implement, to the maximum extent possible, all UN resolutions related to combating terrorism and terrorist finance issues. Taiwan continued to provide rapid and thorough responses on terrorist financing issues to the American Institute in Taiwan (AIT). The "Antiterrorist Action Law" proposed in 2006 by Taiwan's Executive Yuan, is still awaiting action by the Legislative Yuan. Taiwan revised its Money Laundering Control Act in 2009 to extend

the law's coverage to the financing of crimes that intimidate the public or threaten "the government, a foreign government or institution, or international organization."

The Taiwan Office of Homeland Security (OHS) coordinated several large-scale training exercises among law enforcement and security agencies. Taiwan sought ways to harden and protect its critical infrastructure, in order to maintain continuity of operations and government in the event of an attack or disaster. OHS also coordinated counterterrorism exercises with Taiwan law enforcement and security agencies prior to the "2009 Kaohsiung World Games" and the "2009 Taipei Deaf Olympics."

## International Sanctions

None applicable

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	63
World Governance Indicator – Control of Corruption	79

Corruption does not represent a major obstacle for business operating or planning to invest in Taiwan. However, there are several reports of official corruption. These can be traced back to the close ties between politics and business which have raised the risks of corruption particularly in public procurement. Petty corruption, however, is very uncommon in most sectors. Taiwanese anti-corruption law is primarily contained in the Anti-Corruption Act, the Criminal Code and the Organic Statute for Anti-Corruption Administration and the government generally implemented these laws effectively. Taiwan's Agency Against Corruption defines low-level gratuities; therefore, any facilitation payment could be viewed as a bribe by the courts. **Information provided by GAN Integrity.**

### US State Department

Taiwan has implemented laws, regulations, and penalties to combat corruption. The Corruption Punishment Statute and the Criminal Code contain specific penalties for corrupt activities, including maximum jail sentences of life in prison and a maximum fine of up to NT\$100 million (US\$3.3 million). In April 2009, the Legislative Yuan amended the Act for the Punishment of Corruption to bring criminal charges against civil servants who fail to account for abnormal increases in their assets. In July 2011, the administration established the Agency Against Corruption to strengthen efforts to crack down on corruption.

In November 2011, the Legislative Yuan passed amendments to the Anti-Corruption Act that expanded the scope of activities it covered and increased penalties for public officials who fail to explain the origins of suspicious assets or property. Based on the revised act, public servants suspected of corruption are required to declare the origins of their assets if an increase in their assets is disproportionate to an increase in their income in the three years following the allegations. If defendants refuse to offer an explanation, or if the explanation proves to be false and the defendants are found guilty of corruption, they face a jail sentence of up to five years or a fine of no more than the value of the assets of undeclared origin, or both.

The U.S. Government is not aware of cases where bribes have been solicited for foreign investment approval.

Taiwan formally became a member of the WTO Agreement on Government Procurement (GPA) in 2009. The Public Construction Commission (PCC) publishes all state procurement projects that require open bidding, in accordance with WTO transparency requirements. The PCC indicated that in 2011, 2496 contracts were awarded for US\$13.6 billion; 421 of these

contracts valued at US\$5.1 billion went to GPA members; U.S. firms were awarded 157 contracts worth US\$326 million. Foreign tenders accounted for over 37% of all state procurement projects awarded in 2011, among which over 16% were awarded to the U.S. bidders in the past year. Government procurement projects open to WTO GPA members had been limited to Kaohsiung and Taipei City municipalities. Following rezoning in 2010 to create five special municipalities -- Taipei City, New Taipei City, Taichung City, Tainan City and Kaohsiung City -- and a revised GPA implemented in December 2011, Taiwan has expanded coverage to the new entities.

The Legislative Yuan in January 2011 passed the following additional amendments to the Government Procurement Act : (1) Procurements of technology, information, and professional services can be based on quality (i.e., the most advantageous bids), rather than price; (2) A GP data bank containing a list of individual prices of awarded construction tenders exceeding NT\$10 million (US\$331,400); and (3) Procurement agencies are required to use model contracts provided by PCC to reduce potential disputes.

The PCC organizes inspection teams to monitor all public procurement projects both at the central and local levels, and publishes the bidding and inspection results. A task force comprised of PCC staff and independent experts investigates complaints.

The authorities generally investigate allegations of corruption and take action to penalize corrupt officials. From January to October 2012, prosecutors indicted 826 persons on various corruption charges, including 55 senior officials (department director level and above) and 17 elected officials. There were several high-profile corruption cases involving senior officials over the last year. Former Executive Yuan Secretary-General Lin Yi-shih was indicted in October for receiving bribes amounting to NT\$60 million (US\$ 2.1 million), concealing illegal gains and holding unaccountable assets. In December 2012, prosecutors indicted former Director-General of the National Fire Agency Huang chi-min on corruption charges and recommended a life sentence. Huang was accused of taking NT\$19.24 million (US\$662,426) in bribes related to 9 of the agency's major procurement projects. In addition, former chief secretary of the Criminal Investigation Bureau Hsu Jui-shan was indicted in December on several charges including corruption and profiteering. Prosecutors recommended a sentence of 15 years.

Former President Lee Teng-hui was indicted in June 2011 on charges of money laundering and embezzling money from a secret diplomatic fund. Lee made his first court appearance for a pretrial procedure in August. Further pretrial procedures are required before the case goes to trial. In December 2010, former Taiwan president Chen Shui-bian began serving a 17-year jail term after being convicted on corruption and money laundering charges and losing an appeal to the Supreme Court. The Taiwan High Court ruled on November 1, 2012 that Chen should serve 18 years and six months in jail and pay the fine amounting to NT 156 million (US\$5.38 million) for money laundering and corruption in three cases. The High Court also announced on November 5, 2012 that Chen's wife, Wu Shu-chen should serve a sentence of 19 years and two months and pay NT 158 million (US\$5.45 million) fine for money laundering, corruption, influence peddling and perjury in six cases.

Attempting to bribe or accepting a bribe from Taiwan officials constitutes a criminal offense, punishable under the Corruption Punishment Statute and the Criminal Code. The Corruption Punishment Statute also treats payment of a bribe to a foreign official as a crime and makes

such a bribe subject to criminal prosecution. The maximum penalty for a public official receiving a bribe is life imprisonment or a maximum fine of NT\$100 million (US\$3.3 million). For those attempting to bribe officials, the maximum penalty is 7 years in prison and a fine of NT\$3 million (US\$99,400). In addition, the offender will be barred from holding public office. The assets obtained from acts of corruption are seized and turned over to either the injured parties or the Treasury.

## **Corruption and Government Transparency - Report by Global Security**

### **Political Climate**

Located off the southeastern coast of mainland China, Taiwan is one of the 'Four Asian Tigers'. The manufacturing of electronics is its most important industrial sector and fuels its export-driven economy. Taiwan has been virtually independent since the Kuomintang (KMT) lost the civil war in China and fled to Taiwan in 1949. The KMT ruled Taiwan until March 2000, when Chen Shui-bian (from the Democratic Progressive Party, DPP) won the presidential election, ending more than 50 years of KMT monopoly rule in Taiwan. Chen Shui-bian was the President of Taiwan from 2000 to 2008. In March 2008, Ma Ying-jeou, from the KMT, won the presidential election, once again bringing the KMT back to power in Taiwan. He was re-elected in January 2012.

According to Freedom House 2011, corruption remains an ongoing problem despite being less pervasive than in the past. Political corruption is frequently reported in the mass media and is prosecuted rigorously under the criminal law. A recent political scandal that has received widespread media attention was the conviction of former President Chen Shui-bian and his wife on corruption and money laundering charges. According to an October 2011 article by The New York Times, Chen-Shui-bian was given an 18-year prison sentence, in addition to the 17 years he is already serving for corruption. Chen Shui-bian is the first president in Taiwanese history to be indicted and convicted of corruption, despite his vows to end decades of political corruption when he was elected in 2000, as reported in September 2009 articles by The New York Times and Taipei Times. Some family members and associates of the former presidential couple, including their son and daughter-in-law, also received prison sentences due to money laundering and other corruption-related crimes, according to the same article by Taipei Times. Another major political corruption scandal came to light in 2011, involving former President Lee Teng-hui, Chen Shui-bian's predecessor. Lee was accused of embezzling USD 7.8 million in state funds during his 1988-2000 presidency. According to a July 2011 article by The Financial Times, he faces possible life imprisonment if convicted. Lee is the second former Taiwanese president to be charged with corruption.

In 2010, the judiciary has been hit by a string of corruption scandals (see more on 'judicial system' in the Corruption Levels section). According to a July 2011 article by Taipei Times, this has prompted President Ma Ying-jeou to establish a new anti-corruption agency, the Agency Against Corruption (AAC), to exclusively focus on fighting corruption within government agencies. It still remains to be seen how effective the AAC will be in tackling corruption. According to Transparency International's Global Corruption Barometer 2010, 42% the households perceive that the level of corruption in Taiwan has increased over the past 3 years. In the same survey, 37% of the respondents perceived the Taiwanese government's fight against corruption to be 'effective', while 28% perceived it as 'ineffective'. According to

two other surveys conducted in 2011, cited in a February 2012 article by Focus Taiwan, more than 80% of the surveyed citizens felt that government corruption had decreased since President Ma Ying-jeou took office in 2008. Moreover, 86% of the respondents stated that they have confidence in the AAC. The three most intolerable forms of corruption listed by the respondents are: bribery in elections, illegal lobbying and the 'red envelope culture', meaning giving civil servants money in red envelopes to influence them, according to the surveys.

## **Business and Corruption**

Corruption does not appear to be very problematic for doing business in Taiwan, as illustrated in the World Economic Forum Global Competitiveness Report 2011-2012. In fact, the surveyed business executives rank corruption as one of the least problematic factors for doing business. According to another survey, Bribe Payers Index 2011, released by Transparency International, Taiwan ranks 19th out of 28 nations, indicating that the perceived likelihood of Taiwanese companies engage in bribery abroad is relatively high. Transparency International's Taiwan branch, as cited in a November 2011 article by Taipei Times, states that Taiwan has made no progress since 2008, when the Bribe Payers Index 2008 was released. According to Bribe Payers Index 2008, 17% of the surveyed companies stated that foreign bribery in the form of bribing high-ranking politicians or political parties is a prevalent practice, while 14% stated that it is a prevalent practice to bribe low-level public officials to 'speed things up'.

According to the household survey - Global Corruption Barometer 2010, conducted by Transparency International, corruption within the business and private sector is perceived to be pervasive, with approximately 19% of respondents evaluating it as 'extremely corrupt', while less than 1% of respondents evaluating it as 'not at all corrupt'. Also, according to two other household surveys conducted in 2011, cited in a February 2012 article by Focus Taiwan, the most corrupt body listed by the respondents is conglomerates that influence government policies, indicating that citizens do not think that the business and private sector have a high degree of integrity. Finally, when respondents from the Global Corruption Barometer 2010 were asked which institutions they perceived to be affected by corruption, public officials/civil servants scored 3.8 on a 5-point scale (1 being 'not at all corrupt' and 5 'extremely corrupt').

In July 2009, Taiwan acceded to the World Trade Organisation's Agreement on Government Procurement (GPA), which embodies the principles of transparency, and fair and effective competition. Taiwan is now obligated to open much of its government procurement projects to international bidding by suppliers from other GPA members. According to the US Department of State 2011, the Public Construction Commission (PCC) publishes all major projects that require open bidding, in accordance with the requirements set by the GPA. Nonetheless, according to a December 2011 article by Global Security, corruption is pervasive in government procurement, particularly in public-sector construction projects. In addition, local level construction tenders are reported to have the highest level of corruption, according to the same article. For these reasons, companies are recommended to use a specialised public procurement due diligence tool in order to mitigate corruption risks related to public procurement in Taiwan. In addition, companies that planning to invest in or are already doing business in Taiwan are highly recommended to implement integrity

systems and to conduct extensive due diligence when contracting agents to facilitate business transactions in Taiwan.

## **Regulatory Environment**

In June 2010, Taiwan signed the Economic Cooperation Framework Agreement (ECFA) with China, a preferential trade agreement between the two governments aiming to reduce trade tariffs. According to the US Department of State 2011, the pact is expected to contribute to the already robust investment climate in the upcoming years. According to the same report, in order to improve the investment climate, Taiwan has removed the list of permitted investments, but still maintains a 'negative' list of industries closed to foreign investment on the grounds of security and environmental protection reasons. Liberalisation has reduced that list to less than 1% of manufacturing categories and less than 5% of service industries. Railway transport, freight transport by small trucks, pesticide manufacture, real estate development, brokerage, leasing and trading are all open to foreign investment.

According to the World Bank & IFC Doing Business 2012, Taiwan has eased the business start-up process by implementing an online one-stop shop (in Chinese) for business registration. The online one-stop shop is set up by the Ministry of Economic Affairs (MOEA), and has been operational since May 2011. Starting a company in Taiwan requires an entrepreneur to go through 3 procedures, taking an average of 10 days at a cost of only 2.5% of per capita income - which is less time-consuming, less cumbersome and less costly than the regional and the OCED average. According to the World Economic Forum Global Competitiveness Report 2011-2012, business executives rank policy instability and inefficient government bureaucracy as the two most problematic factors for doing business in Taiwan. When business executives are asked about the burden of government regulations, they give Taiwan a score of 3.8 on a 7-point scale (1 'extremely burdensome' and 7 'not burdensome at all'). However, Taiwan is still ranked relatively high amongst the 142 economies, where the highest ranking represents the lowest burden of government regulations.

According to the US Department of State 2011, Taiwan has a set of comprehensive commercial laws, and the court system is generally perceived as independent and free from political interference. Taiwan's Arbitration Law was amended in 1998 to comply with international practices and many of its provisions are influenced by the Model Law promulgated by the United Nations Commission on International Trade Law (UNCITRAL Model Law). Property rights are generally protected and enforced through a registration system. According the same report, disputes are normally resolved according to domestic laws and regulations, and based on national treatment or investment guaranty agreements. Taiwan is not a member of the International Centre for the Settlement of Investment Disputes (ICSID) and not a party to the New York Convention 1958. Access the Lexadin World Law Guide for a collection of legislation in Taiwan.

### Section 3 - Economy

Taiwan has a dynamic capitalist economy with gradually decreasing government guidance on investment and foreign trade. Exports, led by electronics, machinery, and petrochemicals have provided the primary impetus for economic development. This heavy dependence on exports exposes the economy to fluctuations in world demand. Taiwan's diplomatic isolation, low birth rate, and rapidly aging population are other major long-term challenges.

Free trade agreements have proliferated in East Asia over the past several years. Following the landmark Economic Cooperation Framework Agreement (ECFA) signed with China in June 2010, Taiwan in July 2013 signed a free trade deal with New Zealand - Taipei's first-ever with a country with which it does not maintain diplomatic relations - and, in November, inked a trade pact with Singapore. However, follow-on components of the ECFA, including a signed agreement on trade in services and negotiations on trade in goods and dispute resolution, have stalled. In early 2014, the government bowed to public demand and proposed a new law governing the oversight of cross-strait agreements, before any additional deals with China are implemented; the legislature has yet to vote on such legislation, leaving the future of ECFA up in the air as of the conclusion of President MA's second and final term in May 2016. MA portrayed ECFA as Taiwan's key to greater participation in East Asia's free trade networks, and has also expressed interest in Taiwan joining the Trans-Pacific Partnership.

Taiwan's total fertility rate of just over one child per woman is among the lowest in the world, raising the prospect of future labour shortages, falling domestic demand, and declining tax revenues. Taiwan's population is aging quickly, with the number of people over 65 expected to account for nearly 20% of the island's total population by 2025.

The island runs a trade surplus, largely because of its surplus with China, and its foreign reserves are the world's fifth largest, behind those of China, Japan, Saudi Arabia, and Switzerland. In 2006 China overtook the US to become Taiwan's second-largest source of imports after Japan. China is also the island's number one destination for foreign direct investment. Taiwan since 2009 has gradually loosened rules governing Chinese investment on the island and has also secured greater market access for its investors in the mainland. In August 2012, the Taiwan Central Bank signed a memorandum of understanding (MOU) on cross-strait currency settlement with its Chinese counterpart. The MOU allows for the direct settlement of Chinese Renminbi (RMB) and the New Taiwan Dollar across the Strait, which has helped Taiwan develop into a local RMB hub.

Closer economic links with the mainland bring opportunities for Taiwan's economy but also pose challenges as political differences remain unresolved and China's economic growth is slowing. Domestic economic issues loomed large in public debate ahead of the 16 January 2016 presidential and legislative elections, including concerns about stagnant wages, high housing prices, youth unemployment, job security, and financial security in retirement.

#### **Agriculture - products:**

rice, vegetables, fruit, tea, flowers; pigs, poultry; fish

#### **Industries:**

electronics, communications and information technology products, petroleum refining, chemicals, textiles, iron and steel, machinery, cement, food processing, vehicles, consumer products, pharmaceuticals

**Exports - commodities:**

semiconductors, petrochemicals, automobile/auto parts, ships, wireless communication equipment, flat display displays, steel, electronics, plastics, computers

**Exports - partners:**

China 27.1%, Hong Kong 13.2%, US 10.3%, Japan 6.4%, Singapore 4.4% (2012 est.)

**Imports - commodities:**

oil/petroleum, semiconductors, natural gas, coal, steel, computers, wireless communication equipment, automobiles, fine chemicals, textiles

**Imports - partners:**

Japan 17.6%, China 16.1%, US 9.5% (2012 est.)

## Banking

As of 2010, Taiwan has a Central Bank, 37 domestic banks (with 3,326 branch offices), and 29 foreign banks (with 98 branch offices). In addition, there are 26 credit cooperatives, 276 farmers' credit unions, and 25 fishermen's credit unions. These banks, cooperatives, and credit unions have traditionally played a dominant role in finance on the island.

The Central Bank performs all of the functions normally associated with central banks in other countries. It issues currency, manages foreign-exchange reserves, handles treasury receipts and disbursements, sets interest-rate policy, oversees the operations of local financial institutions, and serves as a lender of last resort.

Taiwan's domestic banks offer a wide range of services – receiving deposits, making loans, handling trade financing and providing guarantees, and discounting bills and notes. Most are also involved in the securities business, in underwriting and trading securities and managing bond and debenture issues, as well as in providing savings- account facilities. The Mega International Commercial Bank assists with long-term financing for industries and projects, while the Export-Import Bank of the Republic of China and the Farmers Bank focus on trade financing and agricultural development, respectively.

Foreign banking institutions have played an important role on the financial scene. Foreign banks are essentially treated like domestic commercial banks; they are permitted to engage in trade financing, foreign-exchange dealings, private and corporate lending, and various kinds of trust businesses. In order to build a greater overall market presence, many foreign banking institutions also concentrate on the development of consumer loan and credit card services.

## Stock Exchange

Taiwan's capital market is mature and active. According to the most recent available data, as of November 2010, 747 companies were listed on the [Taiwan Stock Exchange](#) (TAIEX). The ratio of the market value of listed companies to GDP was 162.9%. The market value of the listed companies in Taiwan was at US\$ 734 billion. The transaction volume of Taiwan's securities and stock exchange market reached US\$ 990 billion, and the turnover rate of the transaction volume was 178.3% in 2010.

### Executive Summary

Strategically located between Northeast and Southeast Asia, Taiwan is an important hub for regional and global trade and investment, especially in the high-technology industry. Indicative of its developed and open investment environment, Taiwan ranks in the upper 15th percentile of major global indices measuring ease of doing business, economic freedom, and competitiveness. To promote Taiwan’s regional economic integration and as part of seeking participation in multilateral free trade arrangements, regulatory agencies have initiated reforms across many sectors of the economy, including enhancements to protection of intellectual property rights and other investment-related regulations.

As a relatively open and liberal economy, Taiwan benefits from substantial foreign direct investment, with a total cumulative stock of USD 137 billion in approved investment as of December 2015. Taiwan’s GDP growth slowed to 0.65 percent in 2015, largely as a result of declining exports due to slow regional and global economic growth. Taiwan attracts a wide range of U.S. investors, including in high-tech, traditional manufacturing, and services. The United States is Taiwan’s largest single source of foreign investment, with the stock of committed U.S. foreign direct investment reaching USD 17.1 billion in 2014. U.S. private commercial services exports to Taiwan totaled over USD 12.8 billion in 2014.

Structural impediments in Taiwan’s investment environment include stalled progress on the privatization of Taiwan’s state-owned enterprises (SOEs), which exert influence in the utilities, aerospace, energy, postal, transportation, financial, and real estate sectors. Foreign ownership limits remain in place for wireless and fixed-line telecommunications, television broadcast, and transportation. Restrictions on investments from mainland China in some sectors have been relaxed as cross-Strait ties have improved. The Taiwan Central Bank retains a currency convertibility policy in which it reserves the right to require large transactions that could impact the foreign exchange market to be scheduled over several days. Foreign private equity firms have noted a lack of transparency and predictability in the investment approvals process.

Aiming to promote Taiwan as a regional financial hub, Taiwan’s Financial Supervisory Commission (FSC) adopted a series of liberalization measures in 2014, including liberalization of financial firms’ overseas investments and expansion of overseas business units. Amendments passed by the Legislative Yuan in June 2015 to investment-related statutes clarified review criteria for mergers and acquisitions. Other regulatory revisions and amendments to existing statutes proposed in 2015 aim to clarify review criteria for foreign investment in Taiwan, but these were not implemented or passed by the legislature.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	30 of 167	<a href="http://www.transparency.org/cpi2015#results-table">http://www.transparency.org/cpi2015#results-table</a>

World Bank's Doing Business Report "Ease of Doing Business"	2015	11 of 189	<a href="http://doingbusiness.org/rankings">doingbusiness.org/rankings</a>
Global Innovation Index	N/A	N/A	<a href="https://www.globalinnovationindex.org/content/page/data-analysis/">https://www.globalinnovationindex.org/content/page/data-analysis/</a> Taiwan data are not provided
U.S. FDI in partner country (\$M USD, stock positions)	2015	23,631	Taiwan Ministry of Economic Affairs <a href="http://www.moeaic.gov.tw/system_external/ctrl?PRO=DownloadFile&amp;t=4&amp;id=807">http://www.moeaic.gov.tw/system_external/ctrl?PRO=DownloadFile&amp;t=4&amp;id=807</a>
World Bank GNI per capita	N/A	N/A	N/A

## 1. Openness To, and Restrictions Upon, Foreign Investment

### Attitude toward Foreign Direct Investment

Promoting inward FDI has been an important policy goal for the Taiwan authorities because of Taiwan's self-imposed public debt ceiling that limits public spending and Taiwan's low levels of domestic private investment, which on average grew only 2.8 percent per year over the last five years. Taiwan has pursued various measures to attract FDI from both foreign companies and Taiwan firms operating overseas. A network of science and industrial parks, export processing zones, and free trade zones aims to expand trade and investment opportunities by granting tax incentives, tariff exemptions, low-interest loans, and other favorable terms.

Taiwan maintains a negative list of industries closed to foreign investment for reasons the authorities assert relate to national security and environmental protection, including public utilities, power distribution, natural gas, postal service, telecommunications, mass media, and air and sea transportation. These sectors constitute less than one percent of the production value of Taiwan's manufacturing sector and less than five percent of the services sector. Railway transport, freight transport by small trucks, pesticide manufactures, real estate development, brokerage, leasing, and trading are open to foreign investment. The negative list of industries is available at [http://www.moeaic.gov.tw/system\\_external/ctrl?PRO=LawsLoad&lang=1&id=32](http://www.moeaic.gov.tw/system_external/ctrl?PRO=LawsLoad&lang=1&id=32).

At the end of 2015, accumulated FDI stock in Taiwan totaled approximately USD 137 billion, according to Taiwan's Ministry of Economic Affairs (MOEA) foreign investment approval data. However, discrepancies exist between Taiwan official data and the 2015 World Investment Report of the United Nations Conference of Trade and Development (UNCTAD), which calculated Taiwan's net FDI stock at a much lower USD 68 billion as of 2014. The Taiwan authorities assert that the difference was due to UNCTAD's deduction of outward remittances of profits by foreign investors, in addition to foreign investors' ability to easily obtain low-cost financing directly from within Taiwan.

## Other Investment Policy Reviews

Taiwan has been a member of the WTO since 2002. In September 2014, the WTO conducted the third review of the trade policies and practices of Taiwan. Related reports and documents are available at: [https://www.wto.org/english/tratop\\_e/tpr\\_e/tp402\\_e.htm](https://www.wto.org/english/tratop_e/tpr_e/tp402_e.htm)

The OECD and UNCTAD have not conducted investment policy reviews of Taiwan.

## Laws/Regulations on Foreign Direct Investment

Regulations governing FDI principally derive from the *Statute for Investment by Foreign Nationals* and the *Statue for Investment by Overseas Chinese*. These two laws permit foreign investors to transact either in foreign currency or the New Taiwan Dollar (NTD). The laws specify that foreign-invested enterprises must receive the same regulatory treatment accorded local firms. Foreign companies may invest in state-owned firms undergoing privatization and are eligible to participate in publicly financed research and development programs.

Amendments the Legislative Yuan passed in June 2015 to investment-related statutes clarified investment review criteria for mergers and acquisition transactions. Other amendments were proposed in 2015 but were not passed, including one that would replace a pre-investment approval requirement with a post-investment reporting system for investments under a USD 1 million threshold. Ex ante approval would still be required for investments in restricted industries and those exceeding the threshold. In 2015, Taiwan authorities ceased consideration of a private equity investment's impact on capital markets and resulting thin capitalization as review criteria. Other criteria remain listed on the Ministry of Economic Affairs (MOEA) Investment Commission's Frequently Asked Questions website (located in Chinese only at [http://www.moeaic.gov.tw/system\\_external/ctrl?PRO=FAQLoad&id=464](http://www.moeaic.gov.tw/system_external/ctrl?PRO=FAQLoad&id=464)).

In recent years, the Taiwan authorities revised rules to improve the business climate for startups. With the goal of developing Taiwan into a startup hub in Asia, Taiwan launched an entrepreneur visa program allowing young foreign entrepreneurs to remain in Taiwan if they raise minimum funding of NTD 2 million (USD 66,000). Taiwan has initiated rules to enable intellectual property (IP) rights holders to use IP as collateral in obtaining bank loans, and this and other rules would apply to foreign investors.

Please refer to the "Doing Business" section of the MOEA's Invest in Taiwan Center website, which provides useful information for foreign investors:

<http://investtaiwan.nat.gov.tw/eng/show.jsp?LV=1&ID=18&MID=3>

The Investment Commission website lists the rules, regulations, and required forms for seeking foreign investment approval: <http://www.moeaic.gov.tw/>

## Business Registration

The MOEA operates a business registration website that describes the process: <https://onestop.nat.gov.tw/oss/web/Show/engWorkflow.do>

Approval from the Investment Commission is required before proceeding with business registration. After receiving an approval letter from the Investment Commission, an investor can apply for capital verification and may then file an application for a corporate name and proceed with business registration. The new company must register with the Bureau of Labor Insurance and the Bureau of National Health Insurance before it can start recruiting and hiring employees.

The MOEA Department of Investment Services' (DOIS) Invest in Taiwan Center serves as Taiwan's investment promotion agency and provides streamlined procedures for foreign investors. DOIS services are available to all foreign investors.

For the manufacturing, construction, and mining industries, the MOEA defines small and medium-sized enterprises (SMEs) as companies with less than NTD 80 million (USD 2.5 million) of paid-in capital and fewer than 200 employees. For all other industries, SMEs are defined as having less than NTD 100 million (USD 3.1 million) of paid-in capital and fewer than 100 employees. Taiwan runs a Small and Medium Enterprise Credit Guarantee Fund to help SMEs obtain financing from local banks. Foreign firms may pay a fee to obtain a guarantee from the Fund. Taiwan's National Development Fund has set aside NTD 10 billion (USD 330 million) to invest in SMEs.

#### Industrial Promotion

MOEA's Invest in Taiwan Center website provides information about government programs to attract foreign investment. The *Statute for Industrial Innovation* provides the legal basis for offering tax credits for companies' research and development (R&D) expenditures. MOEA also runs several research and development subsidy programs. MOEA's current target industries for investment are offshore wind energy, logistics, electric passenger and cargo vehicles, information services, mobile broadband services, digital content, semiconductor equipment, biotechnology, and electronic materials.

#### Limits on Foreign Control and Right to Private Ownership and Establishment

Foreign entities are entitled to establish and own business enterprises and engage in all forms of remunerative activity as local firms unless otherwise specified in relevant regulations. Taiwan sets foreign ownership limits in certain industries, such as a 60 percent limit on direct foreign ownership of wireless and fixed line telecommunications firms, and a 49 percent limit on direct foreign investment in that sector. State-owned Chunghwa Telecom Co., which controls 97 percent of the fixed line telecom market, maintains a 55 percent limit on indirect foreign investment and a 49 percent limit on direct foreign investment. There is a 20 percent limit on foreign direct investment in cable television broadcasting services, but foreign ownership of up to 60 percent is allowed through indirect investment via a Taiwan entity. In addition, there is a foreign ownership limit of 49.99 percent for satellite television broadcasting services and piped distribution of natural gas, and a 49 percent limit for high-speed rail services. The foreign ownership cap on airport ground services firms, air-catering companies, aviation transportation businesses (airlines), and general aviation businesses (commercial helicopters and business jet planes) is less than 50 percent, with a separate limit of 25 percent for any single foreign investor. For Taiwan-flagged merchant ships, foreign investment is limited to 50 percent for Taiwan shipping companies operating international routes.

Since 2009, Taiwan has gradually been relaxing restrictions on investments from the People's Republic of China (PRC) in some sectors as cross-strait relations have improved. Taiwan has opened more than two-thirds of its aggregate industrial categories to PRC investors, with 97 percent of manufacturing sub-sectors and 51 percent of construction and services sub-sectors open to PRC capital. PRC investors, however, continue to be prohibited from serving as a Taiwan company's Chief Executive Officer, although a PRC board member may retain management control rights of a Taiwan company. In June 2013, Taiwan and the PRC signed the cross-strait Agreement on Trade in Services under the Economic Cooperation Framework Agreement (ECFA), but legislative review of the services agreement has stalled due to public opposition in Taiwan. As of early 2016, regulators were assessing whether to relax rules regarding PRC investment in portions of Taiwan's integrated circuits sector, and separately the Legislative Yuan was reviewing legislation that would create an oversight mechanism for cross-strait agreements.

#### Privatization Program

There are currently no privatization program is in progress. Taiwan's most recent privatization, of the Aerospace Industrial Development Corporation (AIDC) in 2014, included institution of a foreign ownership ceiling of 10 percent due to the sensitive nature of the defense sector.

#### Screening of FDI

The Investment Commission screens applications for FDI, mergers, and acquisitions. Taiwan authorities claim that 95 percent of investments not subject to the negative list and with capital less than NTD 500 million (USD 18 million) obtain approval at the Investment Commission staff-level between two and four days. Investments between NTD 500 million and NTD 1.5 billion (USD 50 million) in capital take three to five days to screen and the approval authority rests with the Investment Commission's Executive Secretary. For investment in restricted industries, in cases where the investment amount or capital increase exceeds NTD 1.5 billion (USD 50 million), or for mergers, acquisitions, and spin-offs, screening takes 10 to 20 days and includes review by relevant supervisory ministries and final approval from the Investment Commission's Executive Secretary. Screening for foreign investments involving cross-border mergers and acquisitions or other special situations takes 20-30 days, as these transactions require interagency review and deliberation at the Investment Commission's monthly meeting.

The screening process has provided Taiwan's regulatory agencies opportunities to attach conditions to investments in order to mitigate concerns about ownership, structure, or other factors. Screening also may include an assessment of the impact of proposed investments on a sector's competitive landscape and protection of the rights of local shareholders and employees. Screening is also used to detect investments with unclear funding sources, including PRC-source capital. To ensure monitoring of PRC-source investment in line with Taiwan law and public sentiment, Taiwan's National Security Bureau has participated in every investment review meeting since April 2014 regardless of the size of the investment.

Foreign investors must submit an application form containing the funding plan, business operation plan, entity registration, and documents certifying the inward remittance of investment funds. Applicants and their agents must provide a signed declaration certifying that any PRC investors in a proposed transaction do not hold more than a 30 percent

ownership stake and do not retain managerial control of the company. When an investment fails review, an investor may re-apply when the reason for the denial no longer exists. Foreign investors may also petition the regulatory agency that denied approval, or may appeal to the Administrative Court.

U.S. investors have expressed concerns about a lack of transparency, consistency, and predictability in the investment review process, particularly with regard to transactions involving private equity investment. Current guidelines on foreign investment state that private equity investors seeking to acquire companies in “important industries” must provide, for example, a detailed description of the investor’s long term operational commitment and the investment’s impact on sector competition. Investors have experienced lengthy review periods for private equity transactions.

#### Competition Law

Taiwan’s Fair Trade Act was enacted in 1992. Taiwan’s Fair Trade Commission examines business practices that might impede fair competition.

## **2. Conversion and Transfer Policies**

#### Foreign Exchange

There are few restrictions in place in Taiwan on converting or transferring direct investment funds. Foreign investors with approved investments can readily obtain foreign exchange from designated banks. The remittance of capital invested in Taiwan must be reported in advance to the Investment Commission, but the Commission’s approval is not required. Declared earnings, capital gains, dividends, royalties, management fees, and other returns on investment may be repatriated at any time.

For large transactions requiring the exchange of NTD into foreign currency that could potentially disrupt Taiwan’s foreign exchange market, the Taiwan Central Bank may require the transaction to be scheduled over several days. There is no written guideline on the size of such transactions, but according to law firms servicing foreign investors amounts in excess of USD 100 million may be affected. Capital movements arising from trade in merchandise and services, as well as from debt servicing, are not restricted. No prior approval is required for movement of foreign currency funds not involving conversion between NTD and foreign currency. The exchange rate is based on the market rate offered by each bank. The NTD fluctuates under a managed float system.

#### *Remittance Policies*

There are no restrictions on remittances deriving from approved direct investment and portfolio investment. No prior approval is required if the cumulative amount of inward or outward remittances does not exceed the annual limit of USD 5 million for an individual or USD 50 million for a corporate entity. There is no legal parallel currency market in Taiwan.

Taiwan is not a member of Financial Action Task Force (FATF) but is a member of the Asia-Pacific Group on Money Laundering, a FATF-style regional body. In January 2016, a new draft *Terrorist Financing Prevention Act* was forwarded to the Legislative Yuan for review.

## **3. Expropriation and Compensation**

According to Taiwan law, the authorities may expropriate property whenever such a course is determined to be necessary for the public interest, such as for national defense, public works, and urban renewal projects. The U.S. government is not aware of any previous or recent cases of nationalization or expropriation of foreign-invested assets in Taiwan. There are no reports of indirect expropriation or any official actions tantamount to expropriation. Under Taiwan law, no venture with 45 percent or more foreign investment may be nationalized, as long as the 45 percent capital contribution ratio remains unchanged for a period of 20 years after the establishment of the foreign business. Taiwan law requires fair compensation be paid within a reasonable period when the authorities expropriate constitutionally-protected private property for public use.

#### **4. Dispute Settlement**

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Taiwan has a codified system of law. In addition to the specialized courts, Taiwan has a three-tiered court system composed of the District Courts, the High Courts, and the Supreme Court. The *Compulsory Enforcement Act* provides a legal basis for enforcing the ownership of property. Taiwan does not have discrete commercial or contract laws. A variety of different laws regulate businesses and specific industries, such as the *Company Law*, *Commercial Registration Law*, *Business Registration Law*, and *Commercial Accounting Law*. Taiwan's Civil Code provides the basis for enforcing contracts.

Taiwan's court system is generally viewed as independent and free from overt interference by other branches of government. The U.S. Department of State's 2015 Human Rights Report stated that although Taiwan authorities made efforts to eliminate corruption and diminish political influence in the judiciary, some residual problems remained. Judicial reform advocates pressed for greater public accountability, reforms of the personnel system, and other procedural reforms. Some political commentators and academics publicly questioned the impartiality of judges and prosecutors involved in high-profile and politically sensitive cases.

Taiwan established its Intellectual Property Court in July 2008, in response to the need for a more centralized and professional litigation system for disputes relating to intellectual property rights. There are also specialized divisions in the District Courts and High Courts to deal with labor disputes. Foreign courts' judgments are final and binding, and enforced on a reciprocal basis.

Bankruptcy

Taiwan has a bankruptcy law that guarantees creditors the right to share the assets of a bankrupt debtor on a proportional basis. Secured interests in property are recognized and enforced through a registration system. Bankruptcy is not criminalized in Taiwan. Corporate bankruptcy was generally governed by the *Company Act* and the *Bankruptcy Act*. In 2014, there were 132 rulings on bankruptcy petitions.

Investment Disputes

Foreign investment disputes with the Taiwan authorities are rare. Taiwan resolves disputes according to its domestic laws and based on national treatment or investment guarantee agreements.

#### International Arbitration

Taiwan is not a signatory of any international investment treaties, but it has entered into bilateral investment treaties with countries including Singapore, Thailand, Malaysia, and India. Taiwan does not have an investment treaty with the United States. Taiwan's bilateral investment treaties serve to promote and protect foreign investments.

A court order on recognition and enforcement must be obtained before a foreign arbitral award can be enforced in Taiwan. Any foreign arbitral award may be enforceable in Taiwan, provided that it meets the requirements of Taiwan's *Arbitration Act*. In November 2015, the Legislative Yuan amended the *Arbitration Act* to stipulate that a foreign arbitral award, after an application for recognition has been granted by a court, shall be binding on the parties and have the same force as a final judgment of a court, and is enforceable. Taiwan referred to the UNCITRAL model law when the *Arbitration Act* was revised in 1998.

Parties to a dispute may pursue mediation by a court, a mediation committee of a town or city, and/or the Public Procurement Commission. Mediation is generally non-binding unless parties agree otherwise. Civil mediation approved by a court has the same power as a binding ruling under civil litigation.

Arbitration associations in Taiwan include the Chinese Arbitration Association, Taiwan Construction Arbitration Association, Labor Dispute Arbitration Association, and the Chinese Construction Industry Arbitration Association in Taiwan.

#### *ICSID Convention and New York Convention*

In part due to its unique political status, Taiwan is not a member of the International Centre for the Settlement of Investment Disputes (ICSID Conventions), and is not a signatory to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

#### Duration of Dispute Resolution – Local Courts

There is no time limit for court rulings on disputes.

### **5. Performance Requirements and Investment Incentives**

#### WTO/TRIMS

Taiwan has not notified the WTO of any measures that are inconsistent with the Trade Related Investment Measures (TRIMs) obligations. Taiwan does not require foreign firms to transfer technology, locate in specified areas, or hire a minimum number of local employees as a prerequisite to investment.

#### Investment Incentives

Taiwan has instituted investment incentives as stipulated in the *Statute for Industrial Innovation* and the *Act for the Establishment and Management of Free Trade Zones*. Domestic and foreign investors can receive tax incentives for investing in free trade zones, in

public construction, and in biotechnology/pharmaceuticals. Investment support from the central authorities may be available for priority projects. Industrial zones, export processing zones, science parks, and local governments offer various types of subsidies, financing, and tax deductions. For a detailed list of investment incentives programs, please refer to the Invest-in-Taiwan website at: <http://investtaiwan.nat.gov.tw/eng/show.jsp?ID=10&MID=3>

#### *Research and Development*

Investors may receive low-interest loans or subsidies for participating in industrial R&D and industry revitalization programs. Research and development tax credits, equivalent to 15 percent of total R&D expenditures, are available only to companies who file corporate income taxes in Taiwan. Government procurement tenders are open to the public, including foreign firms. Under the *Government Procurement Act*, government procurement includes construction work, purchase or lease of property, and retention or employment of services.

#### Performance Requirements

Taiwan does not mandate any performance requirements.

#### Data Storage

Taiwan does not have forced localization policies related to data storage.

### **6. Protection of Property Rights**

#### Real Property

Interests in property are enforced in Taiwan. Taiwan maintains a reliable recording system for mortgages and liens. Taiwan law protects the land use rights of indigenous peoples. Taiwan's *Land Act* stipulated that forests, fisheries, hunting grounds, salt fields, mineral deposits, sources of water, and lands lying within fortified and military areas and those adjacent to the national frontiers may not be transferred or leased to foreigners. As in other investment categories, Taiwan has specific regulations governing property acquisition by PRC investors.

#### Intellectual Property Rights

Taiwan is not a member of the World Intellectual Property Organization (WIPO) but adheres to key international agreements such as the Berne Convention and the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS). Reflecting progress in Taiwan's IPR legal regime and enforcement, the Office of the U.S. Trade Representative (USTR) removed Taiwan from the Special 301 Watch List in 2009. The United States continues to monitor a number of IPR issues in Taiwan, including online piracy of copyrighted materials, illegal textbook copying on university campuses, end-user piracy of software, satellite signal theft, corporate trade secret theft, and weak pharmaceutical patent protections. The importation and transshipment of counterfeit products, mainly from mainland China, is also a problem. The United States is actively working with the Taiwan authorities to address these issues.

Taiwan authorities have announced their intent to revise IP-related laws to meet criteria stipulated in the Trans-Pacific Partnership text, such as extending copyright protection from life plus 50 years to life plus 70 years, adopting a patent linkage system, extending market protection on biologics, and imposing criminal liability on persons importing counterfeit

products. Amendments to the *Pharmaceutical Affairs Act* in 2015 increased penalties for the production, distribution, and sale of counterfeit medicines. The law authorizes pharmaceutical regulatory data protection for five years, the same period as in the United States, for chemical compound drugs. Amendments extending regulatory data protection to new indications were submitted to the Executive Yuan in December 2015 and are currently pending submission to the legislature.

Taiwan's Intellectual Property Police reported that the value of trademark and copyright seizures in 2015 totaled NTD 14.4 billion (USD 432 million). Taiwan Customs reported that the number of cases involving seizures of imported counterfeit branded goods increased by 34 percent from 149 cases in 2014 to 199 cases in 2015. Customs officials attribute the rise in seizures to increased detection of small parcel air freight shipments of counterfeit goods purchased from mainland Chinese e-commerce sites.

A trademark or patent applicant must file an application with Taiwan's Intellectual Property Office (TIPO). TIPO normally renders a decision within six months after it receives all supporting documents. If the application is approved, the mark/patent will be published and registered after the applicant pays registration fees within two months upon receiving the approval notice. Taiwan's patent application review period was expected to shorten from an average of 41 months in 2013 to less than 22 months in 2016, following the implementation of Patent Prosecution Highway (PPH) agreements with the United States, Japan, Spain, and the Republic of Korea in 2011, 2012, 2013, and 2015 respectively.

Taiwan has no patent linkage system, and there have been several cases of approvals and reimbursements for generic drugs despite of the existence of valid patents. As of April 2016, Taiwan was conducting final public hearings on *Pharmaceutical Affairs Act* amendments that would establish a patent linkage system, prior to their submission for Executive Yuan and legislative approval.

Patent holders may request the Taiwan Customs authorities suspend clearance and detain goods suspected of infringing their patent rights. An affected rights holder must submit a written statement detailing the infringement allegation and a security deposit equivalent to the import value. If final judgment confirms that the detained goods have infringed the patentee's rights, the owner of the detained goods will be responsible for all relevant expenses incurred.

#### *Resources for Rights Holders*

Contact at AIT:

-Kris Kvols

-Economic Officer

--+886-2-2162-2000

-kvolsdk@state.gov

-List of attorneys <http://photos.state.gov/libraries/ait-taiwan/171414/acs/listofattorneys.pdf>

-American Chamber of Commerce in Taipei (<http://amcham.com.tw/>)

## **7. Transparency of the Regulatory System**

Taiwan has transparent policies and effective laws that foster competition and establish clear rules. Accounting, legal, and regulatory procedures are mostly transparent and

consistent with international standards. All publicly listed companies were required to prepare financial reports using International Financial Reporting Standards (IFRS) as of 2013. Unlisted public companies, credit cooperatives, credit card companies, and insurance intermediaries were required to prepare financial reports using IFRS starting in 2015.

In November 2015, the Executive Yuan extended the public comment period for the amendment, promulgation, and abolishment of legislation from seven days to no less than 14 days, a step toward greater regulatory transparency. To help foreign investors obtain updated information regarding regulatory changes, the Executive Yuan Gazette in September 2015 launched an online platform and email subscription service to release draft bills and regulations for public comment. In February 2016, the Gazette dedicated a section to providing information concerning technical barriers to trade (TBT) and sanitary and phytosanitary measures (SPS), which require a public comment period of at least 60 days under WTO rules. Taiwan's National Development Council (NDC) operates the Regulatory Reform Platform (<http://law.ndc.gov.tw>) with the goal of enhancing policy communication with the general public. Through the platform, the public can submit comments on specific legislation, offer policy suggestions, and obtain information on newly promulgated or amended regulations.

## **8. Efficient Capital Markets and Portfolio Investment**

Taiwan authorities welcome foreign portfolio investment in the Taiwan Stock Exchange (TWSE), with foreign investment now accounting for 37 percent of TWSE capitalization. In recent years, in addition to the offshore banking units that have been in operation since 1983, Taiwan launched offshore securities and offshore insurance units, aiming to attract a broader investor base. The Financial Supervisory Commission (FSC) has switched to a negative list approach toward local banks' overseas business not involving the conversion of the NTD.

Taiwan's capital market is mature and active. As of the end of 2015, there were 874 companies listed on the TWSE, with total market trading volume of USD 703 billion (including transactions of stocks, Taiwan Depository Receipts, exchange traded funds, and warrants). Foreign portfolio investors are not subject to a foreign ownership ceiling except in certain restricted companies, and are not subject to any ceiling on portfolio investment. Payments and transfers resulting from international trade activities are fully liberalized in Taiwan. A wide range of credit instruments, all allocated on market terms, are available to both domestic- and foreign-invested firms.

### **Money and Banking System, Hostile Takeovers**

Taiwan's banking sector is healthy and banks are tightly regulated. The sector's non-performing loan (NPL) ratio has remained below one percent since 2010, with a sector average of 0.23 in December 2015. Capital-adequacy ratios (CAR) are generally high, and several of Taiwan's leading commercial lenders are government-controlled, enjoying implicit state guarantees. The sector as a whole had a CAR of 12.67 percent as of September 2015, far above the Basel III regulatory minimum of 10.5 percent required by 2019. Taiwan banks' liquidity coverage ratio, which was required by Basel III to reach 100 percent by 2019, already averages about 119 percent. Taiwan's banking system is mostly deposit-funded and has little exposure to global financial wholesale markets. Regulators have encouraged local

banks to expand to overseas markets, especially to Southeast Asia, and to minimize exposure to mainland China. Taiwan Central Bank statistics show that Taiwan banks' exposure to mainland China on an ultimate risk basis declined for five consecutive quarters to USD 65 billion in 2015, after peaking at USD 94 billion in the third quarter of 2014. Taiwan's largest banks in term of assets are the state-owned Bank of Taiwan, which has USD 157 billion in assets, followed by the state-controlled Mega Bank, with USD 100 billion in assets.

The Taiwan Central Bank operates as an independent agency under the Executive Yuan free from political interference. The Central Bank's mandates are to maintain financial stability, develop Taiwan's banking business, guard the stability of the New Taiwan Dollar's external and internal value, and promote economic growth within the scope of the three aforementioned goals.

To promote the asset management business in Taiwan, starting May 2015 foreigners holding a valid visa entering Taiwan have been allowed to open an NTD account with local banks, replacing the previous dual-identification (passport and resident card) requirements.

Mergers and acquisitions are governed by a variety of laws and regulations (see Section 1). Hostile takeovers are rare in Taiwan.

## **9. Competition from State-Owned Enterprises**

Taiwan launched privatization programs in 1989 transforming many state-owned enterprises (SOEs) into private industries. In March 2016, the Executive Yuan instructed the NDC to compile a consolidated list of all SOEs in Taiwan managed by different ministries, but the list had not been published as of April 2016. As of December 2015, the authorities owned 19 SOEs, including official agencies such as the Taiwan Central Bank. Some existing SOEs are large in scale and exert significant influence in their industries, especially monopolies such as Taiwan Power Co. (Taipower) and Taiwan Water Co. MOEA plans to amend the *Electricity Industry Act* to liberalize the power generation and distribution businesses. Other SOEs such as the CPC Corporation (petroleum) and Taiwan Tobacco and Liquor Co. remained industry giants after their sectors were opened to competition. CPC controls over 70 percent of Taiwan's gasoline retail market. In August 2014, the Aerospace Industrial Development Corp. (AIDC) was successfully privatized through a public listing in the TWSE. MOEA holds a 45.7 percent stake in AIDC and intends to lower its stake to 34 percent by 2017.

The Taiwan authorities retain control over some SOEs that were privatized, including through managing appointments to boards of directors. These enterprises include Chunghwa Telecom, China Steel, Taiwan Fertilizer Co., Taiwan Salt, China Shipbuilding Co., Yang Ming Marine Transportation Co., as well as eight public banks. Taking the banking sector as an example, as of 2015, Taiwan's four largest banks were either wholly owned or controlled by the authorities and accounted for 30 percent of Taiwan domestic banks' total assets.

In 2014, the 19 SOEs contributed NTD 210 billion (USD 7 billion) to Taiwan's treasury, with the Taiwan Central Bank contributing NTD 180 billion (USD 6 billion) of that total. The number of employees working in SOEs was 118,000 in 2014 after several years of gradual decline. R&D spending among SOEs in 2014 totaled NTD 5.7 billion (USD 190 million), concentrated in oil field exploration, drilling technology, and development of alternative energy.

Taiwan acceded to the WTO's Agreement on Government Procurement (GPA) in 2009. Taiwan's central and local government entities, as well as SOEs, are now all covered by the GPA. Except for the state monopolies, SOEs compete directly with private companies. SOEs' purchases of goods or services are regulated by the *Government Procurement Act* and are open to private and foreign companies via public tender. Private companies in Taiwan have the same access to financing as SOEs. Taiwan banks are generally willing to extend loans to enterprises meeting credit requirements. SOEs are subject to the same tax obligations as private enterprises and are regulated by the *Fair Trade Act* as private enterprises. The Legislative Yuan reviews SOEs' budget each year.

#### OECD Guidelines on Corporate Governance of SOEs

Taiwan has not adopted the OECD Guidelines on Corporate Governance for SOEs. In Taiwan, SOEs are defined as public enterprises in which the government owns more than 50 percent of the shares. Public enterprises with less than a 50 percent government stake are not subject to Legislative Yuan supervision but the authorities may retain managerial control through senior management appointments, which may change with each administration. Each SOE operates under the authority of the supervising ministry, and government-appointed directors should hold more than one-fifth of an SOE's board seats. The Executive Yuan, the Ministry of Finance, and MOEA have criteria in place for selecting individuals for senior management positions. Each SOE has a board of directors, and some SOEs have independent directors sitting on the board.

#### Sovereign Wealth Funds

Taiwan does not have a sovereign wealth fund. Members of the incoming administration that will take office in May 2016 have publicly stated they may consider setting up a quasi-sovereign wealth fund to promote economic development.

### **10. Responsible Business Conduct**

The Taiwan public has high expectations for and is sensitive to responsible business conduct (RBC), in part due to concerns about such issues as food safety and environmental pollution. The Taiwan authorities actively promote responsible business conduct. MOEA and the FSC have issued guidelines on ethical standards and internal control mechanisms to urge businesses to take responsibility for the impact of their activities on the environment, consumers, employees, and communities. MOEA maintains an online newsletter to publicize best practices and raise awareness of about latest RBC-related developments in Taiwan and abroad.

Companies with more than NTD 10 billion (USD 330 million) in capital and firms with direct impact on consumers such as food processing, restaurants, chemicals, and financial services were mandated to prepare annual social responsibility reports as of 2015. According to the TWSE, 77 percent of Taiwan's top 100 companies have published social responsibility reports, and 30 percent (or 255) of all total listed companies have issued reports. In August 2014, the TWSE launched the Taiwan Top Salary 100 Index, a government effort to promote corporate social responsibility and expand the use of profit-sharing for the benefit of employees.

In response to a series of food safety and environmental protection scandals in recent years, the authorities have imposed stricter monetary penalties on violators and launched a

registration platform for food industry suppliers to track food ingredients used in the industry's production chain. Taiwan authorities encourage Taiwan firms to adhere to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Afflicted and High-Risk Areas. Taiwan does not participate in the Extractive Industries Transparency Initiative.

## **11. Political Violence**

Taiwan is a relatively young and vibrant multi-party democracy. The January 2016 presidential and legislative elections were peaceful and orderly, as was the transition of power between administrations. There are no recent examples of politically motivated damage to foreign investment.

## **12. Corruption**

Taiwan has implemented laws, regulations, and penalties to combat corruption, including in public procurement. The *Corruption Punishment Statute and Criminal Code* contain specific penalties for corrupt activities, including maximum jail sentences of life in prison and a maximum fine of up to NTD 100 million (USD 3.3 million). Laws provide for increased penalties for public officials who fail to explain the origins of suspicious assets or property. The U.S. government is not aware of cases where bribes have been solicited for foreign investment approval.

*UN Anticorruption Convention, OECD Convention on Combatting Bribery*

Taiwan is not a party to the OECD Convention on Combatting Bribery.

*Resources to Report Corruption*

- Agency Against Corruption (AAC), Ministry of Justice
- Overall Planning Division
- No. 318, 2nd floor, Song-jiang Road, Taipei
- aac2043@mail.moj.gov.tw

Transparency International Chinese Taipei

<http://www.tict.org.tw/front/bin/home.phtml>

## **13. Bilateral Investment Agreements**

Bilateral Taxation Treaties

Taiwan does not have a bilateral taxation treaty with the United States. Taiwan has 29 bilateral tax agreements entered into force (available at <http://investtaiwan.nat.gov.tw/cht/show.jsp?ID=58>) and has concluded similar agreements with Japan and Canada that are pending approval by those governments.

Taiwan has concluded economic cooperation (free trade) agreements with El Salvador, Guatemala, Honduras, Nicaragua, Panama, Singapore, and New Zealand, and has concluded 29 bilateral investment or related agreements (available at [http://www.dois.moea.gov.tw/asp/relation1\\_1\\_3.asp](http://www.dois.moea.gov.tw/asp/relation1_1_3.asp)).

Under the Taiwan Relations Act, the terms of the 1948 Friendship, Commerce, and Navigation Treaty between the Republic of China and the United States remain in force. U.S. investors are guaranteed national treatment and are provided a number of protections, including protection against expropriation. Representatives of the United States and Taiwan signed a Trade and Investment Framework Agreement (TIFA) in 1994 to serve as the basis for consultation on trade and investment issues. TIFA discussions were suspended in 2007 in response to Taiwan policies affecting U.S. beef imports, but resumed in 2013.

#### 14. Foreign Trade Zones/Free Ports/Trade Facilitation

The first free trade/free port zone began operation in 2004 at Keelung, Taiwan’s northern port. Another four were established in 2005 at Taoyuan International Airport and the international harbors in Kaohsiung, Taichung, and Taipei. In May 2010 and August 2013, the Executive Yuan approved free trade zones at Suao and Anping ports, respectively, bringing total free trade zones in Taiwan to seven. Taiwan authorities have relaxed restrictions on the movement of merchandise, capital, and personnel into and out of these zones. As part of a broader restructuring and to increase the competitiveness of Taiwan’s ports, the Ministry of Transportation and Communication established the Taiwan International Ports Corp. (TIPC) in 2012 to manage commercial activities of Taiwan’s ports and free trade zones. TIPC facilitates cooperation with foreign shipping operations and related businesses.

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Taiwan seeks to promote the unique advantages its ports offer as hubs for the Asian regional market. In June 2013, the London Metal Exchange (LME) board approved Kaohsiung Port as an LME delivery port of primary aluminum, aluminum alloy, copper, lead, nickel, tin, and zinc.

#### 16. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

Economic Data	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	

Host Country Gross Domestic Product (GDP) (\$M USD)	2015	523,567	2015	518,816	<a href="https://research.stlouisfed.org/fred2/series/TWNNGDPDUSD">https://research.stlouisfed.org/fred2/series/TWNNGDPDUSD</a>
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (\$M USD, stock positions)	2015	23,631	2014	17,073	BEA
Host country's FDI in the United States (\$M USD, stock positions)	2015	14,209	2014	5,676	BEA
Total inbound stock of FDI as % host GDP	2015	26.2	2014	13.0	UNCTAD

\* Local GDP data source: Directorate General of Budget, Accounting, and Statistics (DGBAS). \* Local FDI data source: Ministry of Economic Affairs (MOEA). Taiwan FDI data reflect approved investments and do not take into account disinvestment.

## Section 5 - Government

### Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

### Legal system:

civil law system

### International organization participation:

ADB, APEC, BCIE, ICC (national committees), IOC, ITUC (NGOs), WTO



## Section 6 - Tax

### Exchange control

At present there is no limit on genuine trade-related remittances whether inward or outward. For non-trade-related remittances, the long standing controls were relaxed from 1997. Business entities can remit up to US\$50,000,000 (or the equivalent) into or out of Taiwan each year without advance approval from Central Bank. The limit for individuals remains unchanged at US\$5,000,000 per year. Each remittance in excess of US\$1,000,000 for a corporate or US\$500,000 for an individual requires supporting documentation.

### Treaty and non-treaty withholding tax rates

The following withholding tax rates are applicable to Taiwanese-source dividends, interest and royalties paid to non-residents where the income is not connected with a permanent establishment in Taiwan.

	<i>Dividends</i>	<i>Interest</i>	<i>Royalties</i>
	(%)	(%)	(%)
<b>Non-treaty countries:</b>	20	15,20	20
<b>Treaty countries:</b>			
Australia	10,15	10	12.5
Belgium	10	10	10
Denmark	10	10	10
France	10	10	10
Gambia	10	10	10
Germany	10	10,15	10
Hungary	10	10	10
India	12.5	10	10
Indonesia	10	10	10
Israel	10	7,10	10
Macedonia	10	10	10
Malaysia	12.5	10	10
New Zealand	15	10	10
The Netherlands	10	10	10
Paraguay	5	10	10
Senegal	10	15	12.5
Singapore	1	2	15
Slovakia	10	10	5,10
South Africa	5,15	10	10

	<i>Dividends</i>	<i>Interest</i>	<i>Royalties</i>
	(%)	(%)	(%)
Swaziland	10	10	10
Sweden	10	10	10
Switzerland	10,15	10	10
Thailand	5,10	10,15	10
United Kingdom	10	10	10
Vietnam	15	10	15

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
International Sanctions <a href="#">UN Sanctions</a> / <a href="#">US Sanctions</a> / <a href="#">EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International)</a> <a href="#">Control of corruption (WGI)</a> <a href="#">Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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Gary Youinou

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