

## INFRASTRUCTURE

capital requirement now used in determining whether domestic companies are qualified to invite visitors from China. Another difficulty is the continued practice by some administrative officers of providing the Inviter with only a photocopy of the approved travel permit for mailing to the applicant on the mainland. The traveler is then expected to exchange the photocopy for the original document at the Chung Hwa Travel Service (Taiwan's representative office) in Hong Kong and Macau. With the advent of direct cross-strait flights, however, that mechanism is outmoded and should be scrapped.

Although the Taiwan government has been moving in the right direction in the past year in terms of policy, at the implementation level the impact of the streamlined procedures has yet to be fully seen. For the sake of Taiwan's economic competitiveness, we urge the government to monitor how the policies are being carried out in practice and to ensure that all relevant administrative officers have been retrained in the new procedures.

### **Issue 2: Eliminate the working experience requirement for foreign employees of non-tech companies.**

While the Committee was preparing its 2008 position paper in May last year, the Council for Economic Planning and Development (CEPD) announced a pledge to relax the requirement that foreign-national employees of non-tech companies have at least two years of work experience – a long-standing issue raised by the Committee every year. We therefore included a complimentary mention of this development in the 2008 paper.

One year later, however, the Committee is discouraged to learn that this plan has been put on hold due to concern by the Council of Labor Affairs (CLA) that allowing more foreign nationals to enter the Taiwan job market would pose competition for local talent and cause the unemployment rate to rise further.

It is understandable that government polices tend to become more conservative and less flexible during a period of economic downturn. However, the Committee wishes to point out that the mentality of “one-job-in equals one-job-out” is outdated. As stated in the introductory section, allowing foreign talent to work in Taiwan is an effective way to provide a more internationalized working environment for Taiwan's own talent. In addition, at a time when neighboring countries are competing for the best and brightest talent from all over the world, Taiwan government's conservative and protectionist approach is not only unnecessary but also counterproductive to its own policy goal of upgrading Taiwan's international living environment.

We once again urge the government to swiftly implement the long-overdue decision to waive the two-year working experience requirement for foreign-national employees for non-tech companies, as was already done earlier in the decade for the tech sector.

First and foremost, the Infrastructure Committee would like to compliment the Taiwan government for joining the WTO's Government Procurement Agreement (GPA). This significant milestone not only demonstrates Taiwan's willingness to fulfill its international commitments, it also opens the door to business opportunities in other GPA signatory countries for Taiwanese companies. AmCham has urged Taiwan to sign the GPA for many years, and we are delighted to witness this outcome.

While we are encouraged by Taiwan's accession to the GPA, we have also noticed a rising trend of protectionism in some government procurement tenders. This trend violates the spirit of the GPA and contradicts the Ma administration's economic development theme of “openness and deregulation.” We call upon the Taiwan government to fully embrace both the letter and the spirit of the GPA. Along those lines, it is important to bring the terms and conditions applied in all government tenders into complete compliance with international practices.

In last year's *White Paper*, this Committee suggested that the government reconsider nuclear power as an option in Taiwan's energy development. We were pleased to learn that last month's National Energy Conference adopted this suggestion. One reason for the worldwide renaissance in nuclear power is the threat of global warming. In this year's paper, we point out Taiwan's near-term CO<sub>2</sub> reduction target is overly ambitious; we recommend adopting a longer-term target. We also note that the proportion of base-load power plants is dangerously low within Taiwan's power system and has already caused grave impact to Taiwan's competitiveness. Meanwhile, we endorse acceleration of the Environmental Impact Assessment (EIA) review process of several proposed coal-fired power projects.

In addition to physical infrastructure, this year the Committee would like to draw the government's attention to software infrastructure. We are concerned that the current under-investment in Taiwan's IT infrastructure may damage Taiwan's future competitiveness. The gap should be corrected as early as possible.

It is our sincere hope that the government will pay close attention to the following suggestions and take appropriate actions.

### **Issue 1: Ensure effective implementation of GPA commitments.**

The Committee commends the Taiwan government for its decision to accede to the GPA and congratulates the Legislative Yuan for giving its prompt endorsement. GPA membership will bring Taiwan closer to the international community and, if implemented successfully, help spur its overall economic development. By opening its government procurement market to GPA members, Taiwan will enjoy more efficient and cost-effective outcomes for its

infrastructural programs. It will also make itself more attractive to foreign direct investment. In addition, world-renowned “Made in Taiwan” products and services will be able to enter the government procurement markets in all 40-plus GPA member countries, a welcome note during the current recession.

Recently, however, our members have witnessed a trend of rising protectionism in Taiwan, mainly by means of inserting a “buy Taiwan” clause in government tenders or by restricting foreign bidders’ participation in government procurement projects. Projects affected in this way include some of the i-Taiwan 12 infrastructure projects and some projects coming under the NT\$500 billion economic-stimulus infrastructure budget – projects in which President Ma Ying-jeou has publicly welcomed foreign investment. We understand that these measures might be a temporary response to current economic conditions. Nevertheless, they violate the spirit of free-market competition and the overall government strategy to “open and deregulate” the Taiwan economy. We sincerely urge the government to reconsider this policy and instruct its procurement entities to embrace the eventual implementation of GPA.

#### **Issue 2: Improve the process to attract foreign investment in BOT/PPP projects.**

In recent years, private participation in Taiwan's public works projects has declined gradually year after year. Undoubtedly the worldwide economic downturn has been partly responsible, but the main reason has been the domestic investment environment. The Committee would like to offer our recommendations on how to correct the problem:

1. **Improve the channels of information.** The project information disclosed by the government is not communicated effectively to potential foreign investors. The main obstacle is that the documentation is usually in Mandarin only, thus discouraging both foreign investor participation and involvement by international funding sources. Establishment of a “one-stop service counter” for foreign infrastructure investment, especially if it is equipped to communicate in English, is urgently needed.
2. **Make market information more transparent.** Although most market information is sufficiently transparent to reduce investors’ risk and uncertainty, some data – such as real-estate trading data – is not yet transparent enough to meet the market standards of advanced countries. The problem could be remedied by requiring all real-estate transactions to be registered in a government database that is accessible to the private sector.
3. **Create greater clarity in the government regulatory process.** The Ministry of Economic Affairs’ Investment Commission and other relevant government agencies should certify before the tendering of a private-participation project that it is open to foreign investors, so as to eliminate any uncertainty from the evaluation process.
4. **Provide for an investment exit strategy.** It is common

for international funds to exit a project after about 5-7 years, whereas private-participated projects in Taiwan are required to make a commitment for 30-50 years, which could significantly discourage potential investors.

5. **Set clear inspection standards.** Taiwan’s complicated and still-evolving inspection standards for engineering and construction increase the contingent risks for potential foreign investors. For example, some building-material manufacturers face the possible loss of the Taiwan market due to a planned shift to Japanese-style test methodology. In addition, in the near future so-called “green building materials” will be introduced into Taiwan. We encourage the Taiwan government to set reasonable and clear standards well in advance, as well as to hold public hearings to solicit industry input before implementing standards.

#### **Issue 3: Revitalize the economy by choosing low-cost energy.**

Of Taiwan’s GDP of approximately NT\$12 trillion, the total revenues of three major energy companies (Taipower, CPC Corp., and Formosa Petrochemical) account for more than NT\$2 trillion. The importance of the energy industry to the Taiwan economy, and the impact for the island of changes in energy costs, is self-explanatory.

In Taipower’s case, for example, the company’s NT\$100 billion deficit last year is largely attributed to the overly large share of power generation taken by gas-fired (LNG) power plants, which generated approximately 40 billion KWH of electricity in 2008. Considering that the cost of using coal is about NT\$1.8/KWH cheaper than gas, more than NT\$70 billion would have been saved had gas been replaced by coal.

But we realize that a power system needs base-, medium-, and peak-load power plants, and that it is not feasible to replace all power generated by gas with coal. The problem is that base-load power plants (nuclear and coal) make up only 45% of the total system, while the optimal base-load installation should be around 65%. The fact that the total installed capacity of gas-fired power plants in Taiwan exceeds that of coal-fired power plants is therefore rather disturbing. In last month’s National Energy Conference, providing adequate power-generation diversity was re-emphasized.

An important conclusion of the conference was to aim to be a “low carbon” society by adopting nuclear power as a low-carbon option. The committee welcomes this conclusion, which is consistent with our suggestion in last year’s *White Paper*.

Nuclear power can achieve two goals: increase the base load and reduce CO<sub>2</sub> emission. But it takes more than 12 years to complete a nuclear project, and in the interim the choice is still between coal and gas. Coal-fired power is cheaper and can increase the base load, while gas-fired power plants are much more expensive but emit less CO<sub>2</sub>.

The presumed benefit of gas-fired power plants is that they generate approximately 0.4kg less CO<sub>2</sub> per KWH compared with coal-fired plants. But based on the above-mentioned cost differential between gas and coal of NT\$1.8 per KWH, the cost of opting for gas-fired plants for the sake of CO<sub>2</sub>

reduction would reach NT\$4,500 per ton. Since that is much higher than the current CO<sub>2</sub> trading price of under NT\$1,000 per ton, it clearly does not offer an economically viable solution – in addition to which LNG does not even qualify as “low-carbon energy” according to the Intergovernmental Panel on Climate Change (IPCC) definition. Moreover, heavily increasing the importation of LNG can pose a threat to the nation’s energy security.

Before a decision is made on what kinds of power plants should be built, we suggest that a cost analysis of the various options be conducted for public scrutiny. If Taiwan truly wishes to revitalize its economy, we believe that both energy security and cost must be taken into consideration when forming a national energy policy.

#### **Issue 4: Adopt a long-term CO<sub>2</sub> reduction target.**

Global warming has become a major issue for all governments. The Taiwan government has announced a highly ambitious CO<sub>2</sub> reduction target – to reduce annual CO<sub>2</sub> emissions during the 2016-2020 period to the 2008 level, and by 2025 to the 2000 level. This would make Taiwan the ONLY one of the 100 non-Appendix 1 countries (those not regulated by the Kyoto Protocol) to adopt such a rigid short-term target.

The program is considered short-term because transformation of the energy infrastructure takes decades to complete. Achieving such an ambitious target in a 10-year time frame would prove to be quite drastic, not to say impractical, unless Taiwan is ready to make great economic sacrifice as a result. That is precisely the reason why no other non-Appendix 1 country is willing to take such a step.

To achieve the short-term target, it has been calculated that even with additional nuclear and LNG power plants, Taiwan would still need to trade 140 million tons of CO<sub>2</sub> by 2025. Based on the going rate of NT\$1,000 per ton, that means an annual expenditure of NT140 billion for carbon trading. It remains highly doubtful whether that burden would be economically or politically feasible.

In addition, the current draft “Green House Gas Reduction Bill” before the Legislative Yuan specifies that 50% of the carbon trading should be conducted domestically – another assumption that is highly questionable. This restriction has been strongly opposed by local industries, with six local trade associations visiting the Premier prior to last month’s National Energy Conference to express their concerns.

At the G8 meeting held in Hokkaido last August, a target of a 50% reduction in CO<sub>2</sub> emissions by 2050 was adopted. This is a much more feasible target, as it is quite likely that in another generation renewable and/or low carbon energy will become cost-competitive enough to replace fossil fuels for most economic activity.

We strongly urge the Taiwan government to closely monitor the progress of the “Copenhagen Protocol” (which may emerge from the next Climate Convention to be held at the end of this year) and to adopt a more realistic and

achievable long-term CO<sub>2</sub> reduction target so as to maintain Taiwan’s competitiveness.

After all, fighting global warming is a marathon; the 100-meter-dash approach may not be the best strategy to solve this long-term problem.

#### **Issue 5: Streamline the Environmental Impact Assessment review process.**

In last year’s *White Paper*, this Committee suggested that the government streamline the current EIA review process. In addition to AmCham, many other local business organizations have raised the same concern. Due to the lack of rigorous review procedures, it is common for the review committee’s comments to exceed the scope of the EIA review process, with the result that the EIA review committees have effectively blocked many public and private investment projects that are much needed for Taiwan’s development.

The government has recognized the seriousness of this situation. Recently, the Executive Yuan (EY) asked the EPA to shorten the EIA review time for two mega-projects: CPC’s Kuokuang petrochemical complex and the fifth phase of Formosa Plastics’ sixth naphtha cracker. The EY’s instructions stated that the review schedule for any activities not regulated by law should all be reduced by half. That is an encouraging move that could alleviate the past difficulties caused by the EIA review process. We hope the same principle will be applied to other projects that have been put on hold, given their significant potential contribution to the economy.

To meet future power demand, the existing power capacity needs to be expanded – but construction of a power plant takes at least five years. To avoid power shortages and the severe economic ramifications they cause, we urge the government to accelerate the EIA review processes for Taipower’s Changkong and Talin projects, which have dragged on for five and two years respectively. Acceleration of these two projects is essential to provide the quality power supply that will be needed when the economy recovers from the current recession.

If the delay in approving the Changkong and Talin projects stems from a preference for gas-fired power plants over coal-fired for environmental reasons, the cost differential cited in Issue 3 should be considered. Replacing these two coal-fired plants (a total of six units of 800 MW each) with gas-fired units would raise annual power generation costs by NT\$60 billion.

The current slowdown in power demand is a short-term phenomenon due to the dip in economic growth. The government needs to take a broader view in planning the long-term economic development for the island.

#### **Issue 6: Continue improving Taiwan’s procurement practices.**

##### **A. Increase the limit of nuclear liability insurance and improve the coverage.**

As Taiwan is not a member of the Vienna Convention or the 2004 Paris and Brussels Convention, it has not

increased the limit of nuclear-liability insurance to meet the current international standard – a current minimum of 300 million SDRs and a possible future limit of \$1.5 billion. In addition, cross-border damage is not covered. We suggest that Taiwan (1) increase the limit of nuclear-liability insurance; (2) improve the coverage of cross-border damage to cover damage wherever it occurs; and (3) have a self-executing provision that raises the limit to the 600 million SDRs once the amendment adopted at the Paris and Brussels Convention takes effect. Such improvement would not only make Taiwan a responsible citizen in the global society, but by minimizing their risk would also encourage global contractors with first-class technology to participate in Taiwan's nuclear projects.

**B. Amend the terms and conditions in relevant model contracts.**

A new public construction technical-service model contract published by the Public Construction Commission (PCC) in 2008 specifies a ceiling on vendors' liability. But vendors are still liable for indirect damages and consequential damages, as well as a broad range of damage items without a ceiling (such as the damages specified by laws and regulations, indemnification on intellectual property infringement, damages from third-party claims, etc). The model contract also contains a penalty term with regard to service quality defects and an unreasonable confidentiality term that requires vendors to bear a perpetual confidentiality obligation. It is almost impossible for vendors to evaluate the risks involved in these terms, thus deterring vendors from joining these government procurement bids.

Furthermore, in a misuse of the standard contract template, government agencies in some cases request that vendors transfer and assign all of their relevant intellectual property rights and trade secrets to the government agency, regardless of the nature of the project. We request further clarification and guidelines from the related government agencies to the officers in charge of the procurement cases, so as to minimize such misunderstanding.

Once again we urge a comprehensive review of these long-standing issues, followed by revision of the relevant procedures, so as to create a platform that encourages multinational companies to play a role in providing Taiwan with world-class infrastructure.

**Issue 7: Increase the government focus on IT infrastructure.**

Information Technology is at the heart of soft power and has become one of the core measures for evaluating national competitiveness. But in Taiwan it still attracts insufficient government interest and investment. In 2008, the Economist Intelligence Unit's *IT industry Competitiveness Report* ranked Taiwan 28th in Support to IT Industry Development and 20th in IT Infrastructure, significantly lagging behind Singapore (which ranked 3rd and 11th) and Hong Kong (10th and 16th). Furthermore, even though it is a major PC manufacturing

and exporting center, Taiwan still has 6.7 million people – excluding the very young and elderly – who do not access the Internet.

The true value of IT comes from combining people with high-value-added applications and services under a correct organizational structure. IT hardware investment alone does not generate value and will not improve Taiwan's competitiveness. Recently several alarming signals have come to our attention indicating the low level of priority the government is attaching to IT deployment: (1) In the IT-related plans included in the economic stimulus packages, the majority of the investment is focused on hardware, without sufficient allocation for IT applications and high value-added services. (2) The government has no Chief Information Officer (CIO) under the current organizational structure, and even in the newly proposed government reorganization plan, the CIO function is only part of one official's portfolio. Having a dedicated CIO position is critical, and is now common internationally in both the private and public sectors.

We call on the authorities to include a dedicated CIO position in the new government reorganization plan and to prioritize investment in IT applications in all i-Taiwan infrastructure programs. Further, we urge the government to set a clear target to bring the remaining 6.7 million members of the population across the digital divide, to increase IT spending to appropriate levels, and to review the spending ratio among hardware, applications, software, and services. National competitiveness depends on how wisely a nation uses Information Technology, the most critical infrastructure for bringing economic and social opportunities to Taiwan's people.

## INSURANCE

The long-term viability of the Taiwan insurance industry is being tested as never before. As discussed in Issue 1 below, it will require coordinated and courageous action to protect Taiwanese consumers and address the insurance industry's financial sustainability.

In addition, the Committee believes it is critical in 2009 to continue the progress made in 2008 on key issues. Among the significant advances last year were passage of legislation providing for 10-year tax-loss carry forward, an increase in the foreign currencies in which policies can be denominated to include the Euro and Australian dollar, a decision to allow independent sales agents to deduct expenses in line with other professionals, and full liberalization of premium rates for commercial property and auto insurance. The Committee expresses its sincerest appreciation to the government authorities for making these important and positive changes.

In the face of the on-going global financial crisis, even more substantial change will be required in 2009. We therefore endorse recent proposals by the Insurance Bureau (IB) to require specific action from companies that breach solvency margin requirements and to enhance public-disclosure and transparency requirements in identifying