

## *Chapter 6*

# CHINESE TAIPEI

## TARIFFS

### *High tariff Products*

#### <Outline of the measure>

Binding coverage was 100% when Chinese Taipei joined the WTO, and the simple average final bound tariff rate on all products is 5.8%. It is 4.8% on non-agricultural products, but high tariffs exist on certain industrial products, such as motor vehicles for the transport of goods (maximum 60%), motorcars and small motor vehicles (maximum 60%), and special purpose motor vehicles (maximum 30%). Currently tariffs are being reduced in stages based on Chinese Taipei's schedule of tariff concessions. That process is completed for most products but Japan expects prompt implementation for those products where the transitional period has not been completed.

Under Chinese Taipei's tariff rate quota system, the high tariffs described above are imposed on products that are not subject to quota, but this system will be removed for large motor vehicles in 2008, and for small transport vehicles and motorcars and small motor vehicles in 2011. Their tariff rates will be reduced to 25% and 17.5%, respectively.

#### <Problems under international rules>

Higher tariff rates do not, *per se*, violate the WTO Agreements unless they exceed the bound tariff rates. From the viewpoint of promoting free trade and enhancing economic welfare, however, it is desirable to reduce tariff rates as much as possible.

#### <Recent developments>

Market access negotiations in the DDA for non-agricultural products are ongoing and include negotiations on reducing and eliminating tariff rates.

## TRADE IN SERVICES

### *Regulations in the Telecommunications sector*

#### <Outline of the measure>

Many ISPs including Japanese ISPs have been operating in the Internet connection market in Taiwan. Chunghwa Telecom, which used to be a state-run ISP, is now providing services under the brand name 'Hinet' and it has more than 80% market share. Hinet charges high connection fees (peering fees) to other ISPs for direct connection to its network, and charges unfavorable fees to Japanese ISPs compared with Taiwanese ISPs. In addition to unfair competition regarding Internet connection, some cases of unreasonable rate systems are observed in relation to lease lines for ADSL connections provided by Hinet.

Since the 28th Japan-Taiwan Economic and Trade Conference (2003), Japan requested Taiwan to pursue proper competitive policies in the telecommunications sector, such as a reduction of peering fees. As a result, peering fees have decreased by approximately 60%

#### <Problems under international rules>

Due to its dominant share in the Internet connection market, Hinet may fall into the category of "major service providers" defined in the ANNEX of the GATS, which stipulates fair competition in the telecommunications sector. If the Taiwanese authorities do not correct Hinet's anticompetitive acts -- such as discriminatory peering fees for Japanese ISPs -- they might be violating regulations such as the ANNEX 2.2(a). In addition, Hinet may fall into the category of "major service providers" also in the lease line market, and, if so, the unreasonable rate system of lease lines might be incompatible with the ANNEX.

#### <Recent developments>

At the 31st Japan-Taiwan Economic and Trade Conference held in November 2006, Japan demanded that Taiwan correct its continued unfair competition in the development of broadband communications. While some improvement has been seen in peering fees, problems remain concerning lease line fees, and Japan has requested that the Taiwanese authorities direct more effort to this matter. In response to this request, the National Communication Commission (NCC), which supervises and administers telecommunications and mass media, stated that it has reduced some connection fees (peering fees) paid by other ISPs to 40% of the standard fee this year to allow them to connect directly to the Hinet network, and that since September 1, 2006 it has further reduced fees to 30%. On November 23, 2006, Taiwan enacted legislation for revision of the wholesale price of lease lines provided to other ISPs by the principal

service providers of the Type 1 telecommunications business market (Hinet in this case) in order to maintain and promote fair market competition and create opportunities for sound market competition. This revision went into effect December 1, 2006.

## **PROTECTION OF INTELLECTUAL PROPERTY**

In Chinese Taipei, intellectual property rights (IPR) protection is governed substantively by the Copyright Law, Trademark Law, Patent Law (including invention patents, utility model patents and design patents), Seeds and Seedling Law, Integrated Circuit Design Protection Law, Trade Secrets Law and Fair Trade Law, and procedurally by the Criminal Code, Criminal Litigation Law, Customs Law and Trade Law. In its Protocol of Accession, Chinese Taipei committed to bring its IPR system into compliance with the TRIPS Agreement from the date of its WTO accession without a transition period.

On enforcement, which has been considered a problem by Members in the past, Chinese Taipei has pointed to remedial measures it has implemented, including stiffer fines for violators, suspensions of violators' businesses under the Fair Trade Law of February 1999 and the training of judges and other officials. Chinese Taipei also implemented a strategy that included training judges and related offices, efforts by a task force comprised of officials from related ministries, introduction of the bounty system for the provider of information connected to arrest of a violator, and formulation of action plans on enforcement.

Hereafter, Japan expects improvement of the administration of the existing systems including strengthening enforcement, and reinstatement of a criminal punishment system to control the infringement of patent rights, industrial design rights and other intellectual property rights for increased surveillance of and action against the distribution of illegal products such as counterfeit and pirated goods.

### **1) Non- and lightened criminal penalties on infringement**

Although Chinese Taipei's Patent Law was amended in 1994, 1997 and 2001 with the intent of conforming it to the provisions of the TRIPS Agreement, criminal penalties for infringement of intellectual property rights have been gradually reduced during that time. In addition, the October 2001 amendment excluded patent infringement from the scope of penalties, and the January 2003 amendment excluded utility models and industrial designs from the scope of penalties.

Chinese Taipei's reduction of the degree of such intellectual properties protection after accession negotiations were concluded is inappropriate, and could significantly reduce the deterrent effect that punishment has on infringement. Decriminalization also excluded police and other government officials from criminally investigating and

initiating cases against infringement, and made civil relief measures the sole recourse. This reduces the effectiveness of these relief measures. Japan seeks reinstatement of penalties for rights infringement. Furthermore, public prosecution should not require the accusation of the rights holder, and criminal penalties should be strengthened.

## **2) Issues related to Counterfeit, Pirated and other Infringing Products**

Despite various ongoing efforts by Chinese Taipei, the FY 2005 Survey Report on Losses caused by Counterfeiting, by the Japan Patent Office (March 2006), shows that among the Japanese companies who suffered damages caused by counterfeiting in fiscal year 2005, approximately 24% cited Chinese Taipei as the region where counterfeit and pirated products were manufactured. Japan expects Chinese Taipei to make further efforts to strengthen its enforcement mechanisms against counterfeit and pirated products, including the reinstatement of a criminal punishment system in cases of infringement of patent, utility model and industrial design rights.