THE DEVELOPMENT OF BANKING IN TAIWAN: THE HISTORICAL IMPACT ON FUTURE CHALLENGES

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Lawrence L.C. Lee*

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I. INTRODUCTION

The Republic of China ("ROC" or "Taiwan") suffered comparatively little as most other Asian countries struggled through the financial turmoil of 1997. Strong economic fundamentals and a flexible capital market minimized the impact of this financial crisis on Taiwan. In addition, Taiwan has benefitted from the guidance of conservative financial policies, which served to strengthen the Taiwanese financial system against the crisis.

Taiwan's conservative financial policies are demonstrated by its establishment of a predominantly state-owned banking system after the Japanese surrender in 1945. Following the Japanese occu-

1. Unless otherwise indicated, the Republic of China [hereinafter "Taiwan" or the "ROC"] refers to the government of the Republic of China on Taiwan since 1949 after its defeat by the Chinese Communist Party in China's Civil War in Mainland China. The full area of Taiwan under control of the Kuomintang (known as "KMT" or "Nationalist Party") includes only the islands of Taiwan, Pescadores (P'eng-hu Islands), and the offshore islands Quemoy and Matsu. For more information related to Taiwan's modern political history and the relationship between Taiwan and Mainland China, see James C. Hsiung, "The Paradox of Taiwan-Mainland China Relations," in The International Status of Taiwan in The New World Order: Legal and Political Considerations, Jean-Marie Henckaerts, ed. London: Kluwer Law International (1996) pp.209-220.

2. While the 1997 financial firestorm blitzed many of Asian countries, Taiwan emerged relatively unscathed and somehow immunized. South Korea's sudden decent into the abyss was a wake-up call for Taiwan, which had been complacent about the wider impact of currency woes sweeping across Asia. See, "Asia and the Abyss." Economist (December 20, 1997), p. 15.


5. See, Nicholas R. Lardy, "China and the Asian Contagion." Foreign Affair (Jul/Aug. 1998) pp.78-79, (analysing that the 1997 financial turmoil which occurred in Asian countries such as South Korean, Thailand, and Indonesia, resulted from financial structural problems, including bank-dominated financial systems, weak central bank regulation and supervision of commercial, excessive lending, and a large buildup of non-performing loans).

pation, Taiwan was left with a complicated and localized banking system.\textsuperscript{7} This fact, along with the financial crises in Mainland China between 1946 to 1949,\textsuperscript{8} forced Taiwan to adopt conservative policies that would ensure the soundness and safety of its financial system.\textsuperscript{9} Within this context of state-led development, Taiwan exercised, by various municipal, provincial, and central governmental agencies, strong, direct control over most domestic banks and financial institutions, as well as those Chinese banks which relocated following the retreat from Mainland China in 1949.

Japan’s influence on Taiwan’s banking system started at the end of the nineteenth century. Because Taiwan was a Japanese colony from 1895 until the end of World War II,\textsuperscript{10} Japan introduced the Western banking system into Taiwan, thereby creating a new era in Taiwan’s banking history.\textsuperscript{11} In addition to establishing a pay-

\begin{footnotesize}
\begin{enumerate}
\item While Taiwan had enjoyed a relatively high degree of prosperity under Japanese colonial administration from 1895 to 1945, both World War II from 1941 to 1945 and the Chinese Civil War from 1945 to 1949 exacted a heavy toll on Taiwan’s economy. In marked contrast to Taiwan’s record of corrupt and ineffectual administration on Mainland China, the KMT regime in Taiwan grappled quickly and effectively with critical problems such as hyperinflation and repairing the devastation inflicted by World War II and the Civil War. See, Hsiung, \textit{supra} note 1.
\item See, \textit{e.g.}, Chairman of the Subcommittee on Telecommunication, Consumer Protection, and Finance of the House Committee on Energy and Commerce, Restructuring Financial Market: The Major Policy Issue, 99th Cong., 2nd Sess., pp. 197-99 (Comm. Print 1986) (stressing that laws that regulated the degree of competition between and within groups of financial institutions were designed specially to ensure the soundness of the financial system).
\item Taiwan was ceded to Japan by the Ching government in 1895 under the Ma Kuan Treaty (Treaty of Shimoseki) [hereinafter the “Treaty of Shimoseki”] following China’s defeat in the first Sino-Japanese War. In July 1894, Japan invaded Korea. The Ching government of China fought against Japan at Korea’s request. The first Sino-Japanese War was ended with the conclusion of the Treaty of Shimoseki on April 17, 1895 after China was defeated by Japan. See, Jia Wei, \textit{Chinese Foreign Investment Laws and Policies: Evolution and Transformation}. Westport: Quorum Books, 1994, p. 102 and H.F. MacNair, \textit{Modern Chinese History: Selected Readings}. Shanghai: Commercial press, limited, 1923, p. 530. Due to Japan’s defeat of the Manchu Dynasty (1644-1911), the Treaty of Shimoseki was signed by Japan and Manchu’s governments, in which the Manchu government agreed to cede Taiwan and the Pescadores to Japan. After the Japanese unconditional surrender in 1945, the 50-year Japanese colonial occupation of Taiwan and Pescadores finally came to an end, and Taiwan became the 35th province of the ROC.
\item The development of a Western-style banking system in Taiwan was thirteen years ahead of that in Mainland China. By the time the first Western-style Imperial Bank of China was established in 1908, at least seven Western-style banks had been
\end{enumerate}
\end{footnotesize}
ment system, however, Japan's colonial government established a complex financial system in Taiwan which has posed immense problems for Taiwan's current banking authorities.

Today, Taiwan has four categories of banks: (I) banks established during the Japanese occupation of Taiwan from 1895 to 1945, (II) banks founded in Mainland China and subsequently re-established in Taiwan after 1949, (III) banks founded and established in Taiwan after 1949, and (IV) new private commercial banks created since 1992 (see Chart 1).12

Chart 1. The Development of Taiwan's Banking Sector

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1842</td>
<td>Banking industries dominated by foreign bankers in Mainland China while Taiwan used a traditional financial system (Taiwan under the control of Ching dynasty from 1644-1895)†</td>
</tr>
<tr>
<td>1895</td>
<td>Western-style banking first established in Taiwan by a Japanese commercial bank (the initiation of the Japanese colonization)</td>
</tr>
<tr>
<td>1945</td>
<td>Establishment of the Provincial Banking System (the last year of Japanese occupation)</td>
</tr>
<tr>
<td>1949</td>
<td>Reactivation of the state-owned banks and reorganization of privately-owned banks in Taiwan after the ROC's government retreated to Taiwan in 1949</td>
</tr>
<tr>
<td>1974</td>
<td>No privately-owned banks licensed in Taiwan until mid-1991</td>
</tr>
<tr>
<td>1989</td>
<td>Initiation of banking internationalization, deregulation, and liberalization††</td>
</tr>
<tr>
<td>Mid-1991</td>
<td>Improvement of banking supervision and restructuring of the banking system allows the entry of new, privately-owned banks.</td>
</tr>
</tbody>
</table>

† The Ching or Manchu Dynasty controlled mainland China for 268 years from 1644 to 1911.
†† The amendment of Banking Law in 1989 radically altered Taiwan's banking industry by reform of the banking system.

Before 1992, banks in Taiwan were owned either by governmental agencies or by individuals who had a special relationship with banking policy makers. As a result of stressing a state-owned banking policy, stringent internal administrative control replaced operating in Taiwan. Therefore, Taiwan had a well-established banking infrastructure before Taiwan was reverted to China in 1945. Before evaluating the supervision performance of the ROC government in Taiwan, it is essential to understand the banking structure established both before and after the Japanese occupation of Taiwan.

banking regulations. This lack of supervision caused a series of Taiwanese banking scandals in the 1980s. Furthermore, in spite of the acceleration of Taiwan's economic growth which was aided by governmental control of financial institutions, the distortion of market function and the bureaucratic nature of banking management limited the development of banking functions in Taiwan. The banking scandals and the distortion of banking functions prompted Taiwan's banking authorities to improve their supervision and restructure the banking system in the late 1980s.

This article primarily focuses on the development of Taiwan's banking sector by reviewing each stage of its development. This article argues that due to the infrastructure established by Japanese control, Taiwan's banking industries evolved into a complicated banking and domestic credit system. In response to the weak financial system present on mainland China which partly caused the ROC's government to leave mainland China in 1949, Taiwan established a state-owned banking system to control the financial system. Along with the globalization of international financial markets,


14. In order to facilitate the acceleration of Taiwan's economic development, Taiwan policy directed toward the financial sector was implemented both by means of direct and indirect government ownership of key financial institutions and through regulatory control. In addition to setting the interest rates on time and savings deposits, Taiwan encouraged savings deposits through means such as exempting from personal income tax interest income from time and savings deposits. See, United States Congress. House. Committee on Foreign Affairs. Subcommittee on Economic Policy, Trade and Environment. U.S.-Taiwan Economic Relations: joint hearing before the Subcommittee on Economic Policy, Trade, and Environment and Asia and the Pacific of the Committee on Foreign Affairs, House of Representatives, One Hundred Third Congress, first session. Washington: U.S. G.P.O. (March 30, 1993). See also, Richard Cosway, Trade and Investment in Taiwan: the Legal and Economic Environment in the Republic of China. Taipei: China Council on Sino-American Cooperation in the Humanities and Social Sciences, Academia Sinica. (1973) pp. 150-179.


16. Remarks by Roger W. Ferguson, Jr., Before the International Banking Conference, Federal Financial Institutions Examination Council, Arlington, Virginia, July 20, 1998 (addressing that conceptually global banking, both direct entry and cross-border inter-bank lending, may influence macro-stability in both positive and negative ways. As a result, the importance of adopting such core principles of sound banking and banking supervision in the international banking system, and also the need to develop a
Taiwan liberalized its banking system, known as the "big bang,"\textsuperscript{17} by revising its banking regulations in accordance with international banking standards in 1989.

This article compares Taiwan's banking supervisory framework to the Basle Accords, recommended by the Basle Committee on Banking Supervision,\textsuperscript{18} in light of several financial scandals which occurred in the early 1990s. This article further reviews a proposal to reform Taiwan's financial system with a view to the 21st century, presented by the Financial Reform Task Force in 1997. In conclusion, this article presents recommendations which might assist Taiwan in creating a sound and safe banking system through the implementation of the Basle Accords.

II. THE FORMATION OF THE TAIWANESE BANKING SYSTEM: A LEGACY OF JAPANESE OCCUPATION

Western-style banking did not appear in Taiwan until the initiation of Japanese colonial control in 1895. Taiwan was ceded to Japan by the Ching government in 1895 under the Ma Kuan Treaty (Treaty of Shimonoseki)\textsuperscript{19} following China's defeat in the first Sino-Japanese War.\textsuperscript{20} The first bank in Taiwan was founded by the Osaka Chung Li Bank, the forerunner of Sanwa Bank Ltd. of Japan.

Taiwan's Western-style banking system emerged thirteen years ahead of Mainland China. By the time the Imperial Bank of China was established in Mainland China in 1908, at least seven Western-style banks had begun operations in Taiwan. Therefore, Taiwan


\textsuperscript{18} The Basle Committee on Banking Supervision [hereinafter Basle Committee] was established at the end of 1974 at the Bank for International Settlements at Basle, Switzerland. The Basle Committee is endorsed by the Central Bank Governors of the Group of Ten (now twelve countries) comprised of Belgium, Canada, France, Germany, Italy, Japan, the Netherlands, Sweden, the United Kingdom, and the United States (later adding Luxembourg and Switzerland). \textit{See}, Ethan B. Kapstein, \textit{Governing the Global Economy: International Finance and the State}. Cambridge, Mass.: Harvard University Press, 1994.

\textsuperscript{19} \textit{See}, the Treaty of Shimonoseki, \textit{supra} note 10.

\textsuperscript{20} \textit{Ibid.}
had built a well-established Western-style banking infrastructure before its reunion with China in 1945.

Before Japanese colonial control began in 1895, Taiwan developed rudimentary traditional financial institutions, including silver associations, merchant houses, and remittance houses. The evolution of the silver associations originated from the "Yao Huei" (shaking association), initially developed during the Tang and Sung dynasties, which collected money to build temples or to provide the revenues for war spending. Later, the silver associations became a financial device to cope with sudden hardship among relatives and friends.\(^{21}\) Afterwards, wealthy merchants became the professional operators of the associations, which evolved into the silver associations in China.\(^{22}\) The silver associations were the predecessors of the mutual savings and loan associations and the savings companies in Taiwan.\(^{23}\)

The Merchant House, which was first introduced by Dutch merchants, was a financial intermediary which used funds provided by the foreign merchants in Amoy (in the Fuchien province) to finance Chinese tea merchants who collected tea from tea farmers in northern Taiwan.\(^{24}\) The remittance house, with its head office in Amoy, established branches in Taiwan, Fuchou, Hong Kong, and Shanghai to engage in the business of deposit-taking, lending, and remittance of funds.\(^{25}\)

The Japanese occupation of Taiwan began in May of 1895.\(^{26}\) Soon thereafter, Taiwan's banking system saw the establishment of a network of Western-style banks, credit cooperative societies, and mutual loans and savings associations. In September 1895, the Osaka Chung Li Bank, a Japanese commercial bank, established the first Western-style bank in Taiwan.\(^{27}\)

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22. See, Kiwatna Ide, Ji\(h\) Chu Hsia Chih Tai Cheng (Taiwan Policies under the Japanese Control), pp.143 (Kuo Hui, trans., The Taiwan Provincial Documentation Committee in 1956); see also Tan Yu-tso, infra note 47, p. 496 (Chin.).
23. See, Tan, supra note 21, p. 143.
25. See, Tan, supra note 21, p. 401.
26. See, Tsai, supra note 24, p. 5.
27. The Osaka Chung Li Bank was renamed the Japan Chung Li Bank in 1896, and was merged into the Thirty Four Bank in January of 1899. See ibid., p. 5; see also Ide, supra note 22, p. 143.
Because the existing banking institutions could not extend their banking services to suburban areas and the country-side, the fringe banking industry in Taiwan during the Japanese occupation included the credit cooperative society, the credit departments attached to agriculture or fishing associations, and the mutual loans and savings associations. Today, the credit cooperative society and the credit departments of agriculture or fishing associations, which according to current laws and regulations are all authorized to take deposits (including check deposits) and to extend loans, still remain active players in the fringe banking industry in Taiwan.

In December 1896, the Bank of Japan, the central bank of the Japanese government, established a branch in Taipei to act as the agent of the Japanese national treasury in Taiwan. The Bank of Taiwan was subsequently established under the Taiwanese Banking Law by the Japanese Parliament in 1897. In June of 1899, Japan authorized the Bank of Taiwan to issue bank notes for local circulation and to act as a central bank in Taiwan. In addition to issuing currency and handling funds for the Japanese government, the Bank of Taiwan also began providing commercial banking services in September of 1899.

The Japanese colonial authorities used the banking system to promote Taiwan's land reform, to encourage agricultural development, and to establish new specialized banks. In particular, Japan used the banking system to enforce a law entitled the Big Property Leases. This law aided tenant farmers in purchasing the farmland that they had been leasing from landowners.

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28. Following the overhaul amendment of the Banking Law in 1975, Taiwan upgraded the mutual loans and savings associations to become small and medium business banks.

29. See, Tan, supra note 21, p. 401 and Ide, supra note 22, p. 143.

30. See, Art. 3 of the Taiwan Banking Law, passed by the Japanese Parliament on April, 1897.


32. During the Japanese colonial period, landlords in Taiwan who possessed the land often did not farm it themselves but leased it to tenant farmers. Under the new law of the Big Property Leases, lands owned by the landlords were issued directly to the farmers on land contracts so that they could gradually gain ownership of the land. When Chiayi Bank and Chang Hwa Commercial Bank were created in 1905, Japan collected the land leases given by landlords of these two banks' shares. Japanese colonial authorities took these lands from landlords and made them more productive because the farmers received benefits which they could not obtain from the absentee landlord. See, Lai, supra note 12, p. 98.

33. See, Lai, supra note 13, p. 59.
To carry out Japanese governmental policies and to support Japanese militarization, the Japanese colonial authorities organized First Commercial Bank, Hwa Nan Commercial Bank, and Chang Hwa Commercial Bank, all before 1919. Because Japan also wanted to extend its national and financial power from south of Mainland China to Southeast Asia, the Hwa Nan Commercial Bank established branches in Malaysia, Singapore, and Shanghai.

After the establishment of the Bank of Taiwan, Japan encouraged the private banking sector to develop the banking business in Taiwan through additional branches or subsidiaries. By the eve of the Japanese surrender in 1945, there were seven major banks operating in Taiwan. Five of them were Taiwan-based banks: the Bank of Taiwan (1899), the Chang Hua Bank (1905), the Taiwan Commercial and Industrial Bank (1910), the Hua Nan Bank (1919), and the Taiwan Savings Bank (1921). The other two were Japan-based banks: the Japan Kungyo Ginko Bank, and the Sanwa Bank. These banks maintained 5 head offices and 165 branches throughout Taiwan, with total deposits amounting to 1,408,596,000 Japanese Yen, and total loans amounting to 1,390,350,000 Japanese Yen.

During the period of Japanese control, Taiwan witnessed a booming era in the credit cooperative societies. The Taipei Credit Cooperative Society, the predecessor of the Taipei Tenth Credit


35. In the Japanese control period, Japanese banks or branches were established on the dates indicated: Taiwan Lung Shang Yin Hang (Taiwan Agricultural and Commercial Bank), in Tainan, in November 1903; the Chia Yi Yin Hang (Chia Yi Bank) in May 1905; the Chang Hua Yin Hang (Chang Hua Bank) in October 1905; the Taiwan Shang Kung Yin Hang (Taiwan Commercial and Industrial Bank) in Pingtung, in August 1910, which moved its head office to Taipei in 1912; the Hsin Kao Yin Hang (Hsin Kao Bank), in Taipei, in January 1916; the Hua Nan Yin Hang (the Hua Nan Bank or the Southern China Bank) (with the special mission to establish the Japanese financial network in southern China) in Taipei, on March 15, 1919; the Taiwan Chu Hsu Yin Hang (Taiwan Savings Bank) in November 1921. The Chia Yi Bank and the Hsin Kao Bank merged into the Taiwan Commercial and Industrial Bank in February 1923. In addition, the Japan Kungyo Bank established its Taipei branch in January 1923, and its Tainan branch in October 1928. In December 1933, the Thirty Fourth Bank, whose first predecessor was the Osaka Chung Li Bank, and the other two Japanese banks were consolidated into the Sanwa Bank. Thereafter, branches of the Thirty Fourth Bank were all renamed as branches of the Sanwa Bank.

36. Tsai, *supra* note 24, pp. 18-19.
Cooperative Society, was established on September 15, 1910. Based upon the Law of Production Cooperative Society promulgated in Japan, the Japanese government in Taiwan issued the Rules Governing the Production Cooperative Society in Taiwan, which became effective in Taiwan on February 20, 1913 and which allowed the establishment of city cooperative societies, village credit societies, and production societies. Even before 1913, at least four credit cooperative societies were established in Taiwan without waiting for the issuance of the governing rules. The number of the village credit cooperative societies in Taiwan increased to 16 by the end of 1913, and to 70 by the end of 1916.

In November 1917, the Japanese government allowed the establishment of the city credit cooperative society in 18 cities and towns in Taiwan. In 1918, there were five city and 142 village credit cooperative societies consisting of approximately 64,000 members, with total capital of some 6.05 million Japanese Yen, surplus reserves of around 630,000 Japanese Yen, and loans amounting to 9.64 million Japanese Yen.

In 1934, the 22 city and 252 village credit cooperative societies consisted of about 295,600 members with a total capital of approximately 19.579 million Japanese Yen, surplus reserves of around 11.5 million Japanese Yen, and loans of about 66.83 million Japanese Yen. In 1942, the number of credit cooperative societies reached 441 (25 city and 416 village), not including the production cooperative societies. The Taiwan Tsang Yeh Chu Ho Lien Ho Huei (United Association of Taiwan's Production Cooperative Societies) was organized in 1942 by 498 cooperative societies in Taiwan with the special mission to supervise and provide funding to the cooperative societies.

Following the military setback in the Pacific War of 1943, the Japanese governor in Taiwan issued the Order of Agricultural Association in December 1943. Japan's decree ordered all village

38. See Ide, supra note 22, p. 145.
40. Ibid, p. 2.
41. Ibid, pp. 2-3.
42. See, Ide, supra note 22, p. 145.
43. Ibid, p. 145.
44. See, Wu, supra note 37, p. 4.
45. See, Tan, supra note 21, p. 491.
credit cooperative societies to merge with the financial departments under the agricultural associations. The purpose of the decree was to increase agricultural production by strengthening the agricultural associations’ economic and financial control of Taiwan’s rural areas.46 The United Association of Taiwan Production Cooperative Societies was also ordered by the Japanese government to be divided into the Taiwan Tsang Yeh Chin Ku (Taiwan Production Bank) and the Taiwan Lung Yeh Huei (Taiwan Agriculture Association) in April 1944.47

The Japanese government invested two million Japanese Yen to increase its control over the Taiwan Production Bank, whose paid-in capital from the private sector was only 600,000 Japanese Yen. At the end of 1943, the Japanese government commissioned the bank as the supervisor of all the financial departments of the agriculture associations and the 25 existing city credit cooperative societies.48

The financial departments of agriculture associations later evolved into the credit departments of agriculture or fishing associations under the Taiwanese government. The Cooperative Bank of Taiwan, reorganized from the Taiwan Production Bank, has continued to supervise and run the clearing houses, and to act as a central bank for those fringe banking institutions through delegated authority from the Central Bank of China.

In addition to the banks and the credit cooperative societies, the silver associations prevailing in Taiwan under the rule of the Ching government continued to prosper during the Japanese occupation period under the name of “Wu Ching Yeh” (Unlimited Liability Business).49 Because no regulations governed the operation of such a unique business, the Japanese government promulgated the “Wu Ching Yeh Fa” (Law of Business with Unlimited Liability), which became effective in Taiwan in 1916.50 Upon the enforcement of the new law, the Taiwan Savings Wu Ching Company amended the scope of its business and obtained a license from the Japanese government in September 1916, but this license was cancelled in June 1920.51

46. See, Wu, supra note 37, p. 6.
47. See, Tan, supra note 21, p. 491.
48. Ibid, pp. 491-492, see also, Wu, supra note 37, p. 4.
49. See, Ide, supra note 22, p. 146; see also Tan, supra note 21, p. 496.
50. See, Ide, supra note 22, p. 146; see also, Tan, supra note 21, p. 496.
51. The Taiwan Wu Ching Company was organized in Taipei in June 1915 and the Ta Cheng Wu Ching Company was established at Tainan in July 1915. The Taiwan
Taiwan's banking system under Japanese control was the first modern banking system in Chinese banking history. Taiwan's banking system was multi-functional and stringently controlled by the Japanese colonial government, and the private banks which the Taiwanese allowed to function were limited to a few who were close to the Japanese colonial government. Taiwan continues to deal with problems in its banking system that were created by the complex financial systems established during Japanese colonial control.

III. THE ESTABLISHMENT OF A PROVINCIAL BANKING SYSTEM AFTER THE JAPANESE SURRENDER IN 1945

The defeat of Japan in Mainland China forced the Japanese to surrender unconditionally in 1945, ending the 50-year Japanese colonial occupation of Taiwan and Penghu (the Pascadores), and reestablishing Taiwan as the 35th province of the Chinese government. The ROC's government took over the banking institutions, but Japanese influence in the Taiwanese banking sector continued to affect the development of Taiwan's banking system.

After the Chinese government accepted the Japanese surrender in Taiwan, the Chinese Ministry of Finance promulgated the Regulation Governing the Disposition of the Bank Notes and the Financial Institutions in the Taiwan Province ("Disposition Regulation") on October 31, 1945, as the guidelines for the reorganization of Taiwan's financial institutions. The financial institutions established by the Japanese were to be taken over by government banks established by the Chinese government. The private financial in-

Kunyko Wu Ching Company was set up in Taipei in June 1920, and took over the Taiwan Wu Ching Company in July 1920. The East Taiwan Wu Ching Company was established at Hualien in May 1926. The Taiwan South Part Wu Ching Company was established at Tainan in December 1926 by taking over the Ta Cheng Wu Ching Company. In 1940, the Taipei House Wu Ching Company was established at Taipei. In 1916, the Wu Ching companies maintained 153 associations consisting of 6,663 members, with a total business volume of 1,571,000 Japanese Yen. The business of the Wu Ching companies continued to increase. In 1934, the Wu Ching companies in Taiwan maintained 798 associations consisting of 2,577 members with a total business volume of 29,873,000 Japanese Yen. See, Lai, supra note 13, pp. 23-25.


53. Ibid, Art. 4 of the Disposition Regulation.
stitutions were then liquidated, except those specially approved by the Chinese government.\textsuperscript{54}

The Ministry of Finance also promulgated the Regulation Governing the Liquidation of the Private Financial Institutions in Taiwan Province ("Liquidation Regulation") on October 31, 1945, to set out liquidation guidelines for private financial institutions. Since no government banks were appointed to take over the Japanese banks, financial institutions established by the Japanese and the Japanese shares of ownership in the private financial institutions were all taken over by the Taiwan Provincial Administrative Office.

These take-overs of Japanese financial institutions formed the provincial government-owned banks.\textsuperscript{55} Provincial government-owned banks were made accountable to the Taiwan Provincial Council, which strongly opposed the privatization of those provincial government-owned banks in the late 1980s. These provincial government banks constituted the major part of the entire government-owned banking system and, like those banks owned by the central government, had suffered from the oppressive control of the Chinese government for several decades.

The Bank of Taiwan, which was used by the Japanese government as the central bank of the Taiwan colony, was reorganized on May 20, 1946 as a provincial bank wholly owned by the Chinese government.\textsuperscript{56} On July 1, 1946, the branches of the Sanwa Bank in Taiwan were merged into the Bank of Taiwan. On September 1, 1946, the Taiwan Savings Bank was also merged into the Bank of Taiwan, and became the Savings Department of the Bank of Taiwan.\textsuperscript{57} The Bank of Taiwan was authorized to issue the Taiwan Dollar to circulate in the Taiwan area in accordance with the Regulation Governing the Issuance of the Taiwan Dollar by the Bank of Taiwan under the Supervision of the Officials Dispatched by the Ministry of Finance (Old Taiwan Dollar Regulation) promulgated on August 17, 1946 by the Ministry of Finance.\textsuperscript{58}

\textsuperscript{54} Ibid, Art. 5 of the Disposition Regulation.
\textsuperscript{55} See, Tsai, supra note 24, p. 19; see also, Shen Lei-chun, Chung Kuo Chin Jung Nien Chien (Chinese Financial Yearbook of 1947) (1947) (Chin.) pp. A155-A156.
\textsuperscript{56} See, Tan, supra note 21, p. 413; see also, Tsai, supra note 24, Chinese Financial Yearbook of 1947, p. A180.
\textsuperscript{57} See, Tan, ibid, p. 413, see also Tsai, ibid, p. A180.
\textsuperscript{58} The conversion rate between the Old Taiwan Dollar and the Taiwan Dollar issued under the Japanese control was one to one. The conversion rate between the Old Taiwan Dollar and the Fa Pi (official currency) was one to thirty at first, one to forty from August 20, 1946, and one to sixty five from July 3, 1947, as the depreciation of the
Following the adoption of the Gold Yuan Note and the military setbacks in Mainland China, the huge influx of Gold Yuan Notes and military expenditures forced the Bank of Taiwan to over-issue the Old Taiwan Dollar, greatly reduced its face value. In order not to repeat the same failure of the Fa Pi and the Gold Yuan Note, the Chinese government appropriated 800,000 ounces of gold and ten million U.S. dollars and authorized the Taiwan Provincial Government to initiate monetary reform on June 15, 1949. The Taiwan Provincial Government issued the New Taiwan Dollar to replace the Old Taiwan Dollar at the conversion rate of one “New Taiwan Dollar” to 40,000 Old Taiwan Dollars. The move of the ROC government to Taipei in December 1949, along with the currency reserves of gold, silver, and foreign currency collected with the issuance of the Gold Yuan Note, strengthened the position of the New Taiwan Dollar.  

In the process of taking over Japanese financial institutions, five branches of the Japanese Kungyo Ginko Bank in Taiwan were reorganized on June 1, 1946 to become the Land Bank of Taiwan, wholly owned by the national government as a specialized bank to provide credit for real estate transactions. The Taiwan Commercial and Industrial Bank was reorganized on October 16, 1946 and became a commercial bank. The Chinese national government took over the Japanese ownership, which owned 56.4 percent of the bank, and on March 1, 1949, the bank changed its name to the First Commercial Bank of Taiwan.  

The Chang Hua Bank was reorganized on March 1, 1947 and was renamed as the Chang Hua Commercial Bank. The Hua Nan Bank was reorganized on March 1, 1947 into the Hua Nan Com-

Fa Pi accelerated. For the full text of the Old Taiwan Dollar Regulation, see, Compilation of the Financial Laws and Regulations of 1947, supra note 52, pp. 232-233.  


60. See, Tan, supra note 21 p.463; see also, Chinese Financial Yearbook of 1947, supra note 56, p. A180.  

61. See, Tan, supra note 21, p. 472; see also, Chinese Financial Yearbook of 1947, supra note 56, p. A180; and Tsai, supra note 24, pp. 19-20.  

62. See, Tan, supra note 21, p. 487; see also, Chinese Financial Yearbook of 1947, supra note 56, p. A180. At first, the Chinese national government only owned 46.9 percent of the Chang Hua Commercial Bank. The government ownership increased to 56.2 percent in December 1950 when the Bank of Taiwan invested in the Chang Hua Commercial Bank.
mercial Bank, and on May 1, 1947, the Taiwan Trust Company was merged into the Trust Department of the Hwa Nan Commercial Bank. The Chinese national government also owned the majority of the shares of this bank.63

The Japanese Taiwan Production Bank was reorganized into the Cooperative Bank of Taiwan on October 5, 1946 through the combination of the Statute of Cooperative Banks and the local practices prevailing in Taiwan. After this bank’s organization, the Chinese government owned more than 60 percent of the bank.64 The remaining shares were owned by various cooperative society industries, agriculture associations, and fishing associations.

Four Wu Ching companies established during the Japanese occupation were taken over by the Taiwan Provincial Administrative Office and reorganized into Taiwan’s Provincial People’s Savings and Mutual Loans and Savings Corporation in June 1947. Taiwan’s Provincial Administrative Office renamed the Wu Ching companies, which later became known as the Taiwan Mutual Loans and Savings Association and Saving Corporation. In July 1952, the government owned 93.2 percent of the corporation’s total capital.65 Following an amendment to the Banking Law in 1975, the Taiwan Provincial People’s Savings and Mutual Loans and Savings Corporation was upgraded to the Small and Medium Business Bank of Taiwan. Unlike the other seven private small and medium business banks whose business areas were limited to a specific region, the Small and Medium Business Bank of Taiwan was permitted to establish branches across Taiwan.66

Thus, the provincial banks that descended from Japan colonial control became the major banks which have assisted the development of Taiwan’s economy and have maintained stability in Taiwan’s financial system over past decades.67 In addition, while the

63. See, Tan, supra note 21, p. 483; see also, Chinese Financial Yearbook of 1947, supra note 56, p. A180; see also Tsai, supra note 24, p. 31.

64. See, Tan, supra note 21, p. 492; see also, Chinese Financial Yearbook of 1947, supra note 56, p. A180.

65. See, Tan, supra note 21, p. 497.


provincial banks still dominate Taiwan’s banking sector, the establishment of private banks has been permitted since 1992.

IV. REESTABLISHMENT OF STATE-OWNED BANKS AND REORGANIZATION OF PRIVATELY OWNED BANKS IN TAIWAN AFTER 1949

After the withdrawal of Japan, Taiwan maintained conservative financial policies, and financial supervision was provided through multiple agencies. Because a complex existing banking infrastructure had been established in Taiwan by the Japanese, the Taiwanese government was not eager to re-establish banks established in Mainland China. As Taiwan’s economy began to improve, however, the Taiwanese government allowed the government-owned banks that formerly operated in Mainland China to be re-established in Taiwan to further stimulate the local economy.

The Taiwanese government also adopted a policy which favored governmental ownership of banks instead of market control in the banking industry in order to facilitate industrial development. In contrast to the ascendency of market control in the United States and the United Kingdom, Taiwan controlled the allocation of its financial resources to support the development of industries through its state-owned banking system. Most state-owned banks controlled by the central government were also made accountable to the Ministry of Finance and the Legislative Yuan.

After the ROC’s government retreated to Taiwan, the Central Bank of China (CBC) moved its head office to Taipei, but ceased all external business. For example, the issuance of paper notes was the privilege of the CBC, but the CBC was not equipped to handle that responsibility at the time. Therefore, the CBC empowered the Bank of Taiwan to issue the Old Taiwan Dollar beginning in 1946 under the supervision of the Ministry of Finance, and the New Taiwan Dollar in 1949 under the supervision of the Taiwan


69. See, Tan, supra note 21, p. 89.

The Development of Banking in Taiwan

Provincial Government. The CBC's delegation of power to the Bank of Taiwan was an expedient measure by Taiwan's government, whose monetary policy was insufficiently developed due to the 1949 retreat to Taiwan.

On June 29, 1951, the Executive Yuan promulgated the Regulation Governing the Business of Issuance of the New Taiwan Dollar by the Bank of Taiwan, which formally allowed paper note issuances under the supervision and control of the CBC.\(^{71}\) The only function performed by the Central Bank of China at that time was to act as a supervisory agency for the Bank of Taiwan, which performed virtually all the functions of a central bank before the Central Bank of China resumed business on July 1, 1961.\(^{72}\)

To enlarge the financial resources available to developing industries of Taiwan, the Executive Yuan of the national government promulgated the Program of the Adjustment of the National Government-owned Enterprises ("PANGE") on June 9, 1940. The PANGE provided the criteria to decide the future of the government banks established in Mainland China.\(^{73}\) The Central Trust of China had maintained branches at Taipei, Keelung, Tainan, and Kaohsiung before moving its head office to Taipei in the winter of 1949.\(^{74}\) With the most intact business structure in Taiwan, the Central Trust of China was the first governmental financial institution to be allowed by the PANGE to continue the business of international procurement and to resume its banking business in March 1951.\(^{75}\)

The Bank of Communications moved its head office to Taipei in January 1950, and the PANGE allowed the Bank of Communications to maintain supervision over its branches in Hong Kong, Rangoon, Calcutta, Saigon, Haiphong, Hanoi, and a subsidiary in the Philippines. Later, in the spring of 1950, its branches in Hong Kong, Rangoon, and Calcutta were taken over by the Chinese communists following the recognition of the People's Republic of China by the United Kingdom and India. The Bank of Communications

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73. See, Tan, supra note 21, p. 264.

74. See, Tan, supra note 21, p. 349; see also Liu, supra note 72, pp. 197-98.

75. See, Tan, supra note 21, p. 349 and 352; Liu, supra note 72, pp. 197-98.
finally resumed its banking business in Taiwan on February 2, 1960. In 1992, the Bank of Communications changed its English name to the Chiao Tung Bank in order to differentiate itself from the Bank of Communications operating in Mainland China.

PANGE also allowed the Bank of China to maintain its existence as a legal entity because it needed to supervise its overseas branches in New York, Tokyo, Osaka, Saigon, and Bangkok, and because it had to take care of the shares owned by private shareholders who were unable to come to Taiwan. The Bank of China was later allowed to resume its business in Taiwan in October 1960. In December 1971, the Bank of China was privatized by selling the government’s shares to the ruling Nationalist Party, and it was renamed the International Commercial Bank of China.

The Farmers’ Bank of China moved its head office to Taipei on December 15, 1949. The PANGE allowed it to maintain its existence as a legal entity because the Farmers Bank of China had to protect the interests of private shareholders and because the Farmers’ Bank of China had previously invested in Taiwan. The Farmers’ Bank of China was finally allowed to reestablish its business in Taiwan in 1967.

Banks owned by the Japanese and taken over by the government and government banks formerly established in Mainland China and reactivated in Taiwan together constituted a strong government-owned banking system for Taiwan. In the mid-1960s, the number of head offices and branches of private banking institutions represented only 2.7 percent of the entire banking industry in Taiwan. This government-owned system has dominated Taiwan’s financial system for past four decades.

76. See, Tan, supra note 21, p. 265; and Liu, supra note 72, p. 197.
77. See, Tan, supra note 21, p.264; Liu, supra note 72, p. 200.
78. See, Ohta & Liang, supra note 66, p. 122.
79. See, Tan, supra note 21, p. 309.
80. See, Tan, supra note 21, p. 264.
81. Coupled with the Taiwan Land Development Trust and Investment Company, the Taipei City Bank, the Kaohsiung City Bank, and the Export-Import Bank of the Republic of China established during the 1970s.
82. See, Ohta & Liang, supra note 72, p. 122.
V. EMPHASIS ON BANKING SUPERVISION IN PREVENTING THE BANKING SCANDALS OF THE 1980s

In spite of its assistance in the development of Taiwan's economy, the constrictive policy of the state-owned banks sparked the formulation of an underground financial sector. Insider lending and the distortion of banking functions, both of which resulted from conservative regulatory policies, prompted Taiwan to restructure its banking policies and system as well as to reorganize banking supervision around more efficient market-based standards instead of out-of-date bureaucratic guidelines.

The underground financial sector was the illegal extension of the non-banking financial institutions, and it induced a series of explosive banking scandals in the 1980s. Prior to the establishment of private commercial banks, Taiwan's extremely conservative fiscal policies effectively restricted bank financing to certain borrowers, such as the largest industrial borrowers. As a result of the government's tight credit policies, a large-scale underground financial sector developed in Taiwan, which catered to the needs of individuals and small- and medium-sized businesses that had not been able to obtain financing from regulated sources. The underground financial sector include loan sharks, underground investment companies, post-dated check discounters, and rotating credit clubs.

Due to unclear banking regulations and the limited investment channels allowed under Taiwan's conservative financial policies, the Underground Investment Companies (UICs), which were unlicensed, non-banking financial institutions, received large deposits from Taiwanese investors, who received interest rates ten to twenty-five percent higher than those of banks. In addition to influencing banking functions, the UICs have threatened Taiwan's

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84. The UICs found a loophole in the Banking Law which did not clearly state that banks were the only institutions that could receive deposits and loan funds to the Taiwanese public. As a result, the UICs formed investment cooperatives whose function, like a financial institution, was to receive deposits and return interest at a high rate to the depositors.

85. The UICs rose to prominence in 1986 and 1987, creating major economic and financial problems for Taiwanese authorities and investors. UICs mushroomed to colossal proportions within only a few years by offering returns to investors of 4% or more per month. For example, Hung Yuan, the largest UIC, and 170 small UICs were estimated to have taken the equivalent of U.S.$8 billion from more than a million investors in Taiwan. See, James McGregor, “Fate of a Gray-Market Behemoth in Taiwan Could Cause Financial and Political Tremors.” Asian Wall Street Journal Weekly, (Nov. 20, 1989), pp. 1-2.
financial system and caused a loss of confidence in the government. The UICs manipulated stock prices by investing in specific companies' shares and through illegal insider trading which was done to pay off its high short-term interest rates.  

The resulting disruption in Taiwan's financial markets caused Taiwan financial authorities to prohibit the UICs by amending the Banking Law in 1989 to eliminate the legal loophole. With the resulting severe restrictions on the UICs' activities, the bankruptcies of a number of UICs in the late 1980s caused financial crises from which investors could not recover. The UICs' eventual crash and defaults on loan payments prevented other companies from raising capital.

The Taiwanese financial system was recently rocked by several scandals in which the staffs of financial institutions conspired with borrowers in cases of over-lending by insider trading and unprofessional banking management. The banking scandals suggested that Taiwan's financial system may be monitored insufficiently and that Taiwan needs an improved system of banking supervision not directed by administrative control.

Another series of financial scandals which took advantage of legal loopholes endangered Taiwan's financial stability in the 1990s (see Chart 2). Specifically, more than ten financial scandals occurred in 1995, equal to the number of financial scandals that had befallen Taiwan in the past four decades. In addition to embezzlement, the most dramatic financial scandals resulted from insider lending offenses.

86. See, Chun-I Chen, "Underground Investment Firms in the Republic of China on Taiwan: A Comparison with the Development of Banking Law in the United States." *Chinese Yearbook of International Law Affair*, Vol. 9 (1993-94), pp. 126, 128 (describing that the ascent and subsequent crises of the underground investment companies in Taiwan, as well as their implication for Taiwan's financial system).

87. Art. 29 of Banking Law of 1989 (stating that unless otherwise provided by the law, a legal entity which is not a bank shall not carry on the business of deposit taking, managing trust funds or managing property entrusted by a member of the public or providing foreign exchange services for domestic or foreign customers).


90. Insider lending refers to, in this article, bank loans to directors and officers of a bank not subject to regulation or collateral requirements.
Chart 2. Selected Taiwanese Banking Collapses in the 1990s

<table>
<thead>
<tr>
<th>Failed Banks</th>
<th>Occurrence Date</th>
<th>Government Response</th>
<th>Statutes Violated</th>
<th>% of Deposit</th>
<th>Withdrawn Deposits</th>
</tr>
</thead>
<tbody>
<tr>
<td>TaiTun Medium-Business Bank</td>
<td>Feb. 9-12, 1996</td>
<td>Bailout from CDIC &amp; Changed Director</td>
<td>Over-loan &amp; Affiliate Loan</td>
<td>28.2</td>
<td>N.T. $330 million</td>
</tr>
<tr>
<td>Chungli Farmers’ Association</td>
<td>Sept. 20, 1995</td>
<td>Bailout from State-owned financial institutions</td>
<td>Debt-bad Loan</td>
<td>n/a</td>
<td>N.T. $3.2 billion</td>
</tr>
<tr>
<td>Changhua Fort Credit Union</td>
<td>Aug. 1995</td>
<td>Takeover by the Cooperative Bank of Taiwan</td>
<td>Bank Fraud</td>
<td>n/a</td>
<td>N.T. $6.4 billion</td>
</tr>
</tbody>
</table>

Lending from an interested party results when a financial institution extends unsecured credit (other than consumer credit) to the financial institutions’ favored patrons at an improved rate and on favorable credit terms. Halting this type of lending in Taiwanese banks has recently become an issue of great importance, as the supervision of banking operations and the protection of bank depositors are indispensable and significant national issues for Taiwan.

91. In addition to the selected banking scandals, several more banking failure cases exploded and resulted in large withdrawals during the 1990s, including: Kwa-in Farmer’s Credit Union (enormous bad loans, Feb. 17-24, 1996); Kiman Farmer’s Credit Union (over loan limit rate, Dec. 12-15, 1995); Hsin-Fon Farmer’s Credit Union (unperfected loan, Oct. 30-Nov. 1, 1995); Hsi-Kon Farmer’s Credit Union (untrue rumor, Oct. 7, 13, 1995); Wan-Ron Farmer’s Credit Union (untrue rumor, Sept. 11-15, 1995); Overseas Chinese Bank (misconduct in management, Jan. 19-20, 1995); Nan-Long Fisherman’s Credit Union (personal affair disputes, Sept. 27-Oct. 3, 1994); Ho-Long Farmer’s Credit Union (untrue rumor, Mar. 8-19, 1994); To-Kan Credit Associative (untrue rumor, Feb. 24-Mar. 2, 1994); Hsin-Da Fishermen’s Credit Union (personal affair disputes, Mar. 11-15, 1993); Kwa-in Farmer’s Credit Union (personal affair disputes, March 5, 1993); Citibank’s Taipei Branch (untrue rumour, Aug. 9, 1991). See, Center Deposit Insurance Corporation, Analysis of Withdrawn from Taiwan’s Financial Institution in 1990s (March 1996) (Chin.).


93. Ibid.

94. Most countries have adopted appropriate methods to prevent insider lending offenses. The current existence of theories to limit insider lending are based upon principles of prohibition, principles of avoidance, principles of separation, principles of independence, principles of equivalence, principles of proportion, principles of decision by the board of directors meeting, principles of report and disclosure to competent authorities, principles of approval, and principles of return. See, Patricia A. Murphy, Note, “Insider Loans: How Restricted is The Banker?” Fordham Urban Law Journal, Vol. 9 (1980), pp. 431, 432-433.
wan's financial regulators.\footnote{95} Regulating the extension of credit to the interested parties of financial institutions may block the illegal disbursement of funds to interested parties.\footnote{96}

Banking plays an essential role in a national economy; societies have a fundamental need for institutions that can coordinate the taking of deposits and the lending of capital.\footnote{97} Taiwan's conservative banking policy and limitation on banking operations, however, distorted normal banking functions and made banks more analogous to simple cashiers rather than intermediaries. Theoretically, banks should accept credit from depositors and lend to debtors in order to play a intermediary role in the facilitation and development of economic growth.\footnote{98} Banks also help to stabilize a national economy when they operate in a liberal but regulated system.\footnote{99}

Taiwan has taken steps toward liberating banking operations and strengthening banking supervision by amending banking regulations to increase the Taiwanese banking authorities' power to monitor banking operations. In response to the internationalization of the banking sector, incorporating internationally-recognized banking supervisory standards into Taiwanese banking regulations will help Taiwan to further advance its banking system.

\footnote{95. See, Art. 33-1 of Banking Law of Taiwan (stating that "responsible persons" of a financial institution include any member of its staff, any person who is an interested party of its responsible person, and any credit officer). The Banking Law of Taiwan [hereinafter the "Banking Law"] is the primary banking statute in Taiwan. The initial Banking Law was passed in 1931, and has been amended fourteen times: September 1, 1947; June 16, 1950; November 11, 1968; July 4, 1975; December 29, 1977; July 19, 1978; December 5, 1979; December 5, 1980; July 17, 1981; May 20, 1985; July 17, 1989; October 30, 1992; June 29, 1995; and May 7, 1997. [hereinafter "Chronicle of Banking Law amendments"]. See, Li-Chung Lee, "What Next for Banking in Taiwan?" American University, LL.M. International Bulletin (Summer, 1994.) The Banking Law, in this research, refers to the 1975 amendment to the Banking Law unless otherwise stated.}


VI. THE BIG BANG: TAIWAN’S BANKING LIBERALIZATION AND INTERNATIONALIZATION IN 1989

In 1989, Taiwan’s banking law greatly shifted due to liberalization and internationalization. Because of these trends, coupled with internal calls for changes to the financial system, Taiwan enacted the eleventh amendment to the Banking Law in 1989. Additionally, to stimulate competition and to maintain sound financial activities, the government approved applications for sixteen new private banks and allowed two trust companies to convert into commercial banks.

Taiwan’s banking authorities plan to promote Taipei as a regional financial center by pressing ahead with the liberalization effort and improving financial intermediation. Taiwan’s strategy for becoming a regional financial center is to keep the off-shore and on-shore markets separate. Off-shore markets will enjoy full liberalization, while on-shore or domestic markets will gradually liberalize. The separation of off-shore and on-shore banking systems reflects Taiwan’s conservative policies which are designed to pro-

100. See, Chronicle of Banking Law amendments, supra note 95.


102. See, International Banking Regulation and Supervision: Change and Transformation in the 1990s. London: Graham & Troman/Martinus Nijhoff Publishers, 1994. The MOF also indicated that in order to develop Taipei into one of the regional financial centres in Asia, and to coordinate the Six-Year National Reconstruction Plan, the banking community in Taiwan would be encouraged to promote those NFBs as recommended in the conclusions made at the National Financial Conference held in 1991 in Taipei. It recommended that NFBs include all deposits relating to government bonds and all financial products with floating interest rates including floating rate notes and floating certificates of deposit. With the NFB Regulation, the MOF opened a communications channel for the foreign and domestic banking community in Taiwan to introduce NFBs prevailing in the international financial field. Based on this background, liberalization and internationalisation should take hold in Taiwan by virtue of the procedure stipulated in the NFB Regulation.

103. Taiwan’s financial system is characterized by a clear distinction between its on-shore and off-shore markets to prevent domestic financial market from the influence of off-shore vulnerable.
tect the domestic banking system from the negative effects of off-shore volatility.

In order to liberalize the financial system, Taiwan added an amendment to the Banking Law in 1989.104 The amendment chartered banking licenses to private applicants in response to the trend toward internationalization and liberalization of banking system. The growth of Taiwan's financial market was nurtured during the 1980s. Taiwan's impressive economic performance105 over the past four decades stimulated the development of its financial sectors.

The purpose of this early receptiveness to foreign bank branches was twofold. One purpose was to response to increased pressure from the United States which had continually asked Taiwan to open its door to American financial institutions. The second was to help the government avoid being isolated by the pressure from the People's Republic of China following Taiwan's withdrawal from the United Nations in 1971.

The primary impetus pushing Taiwan towards financial internationalization has come mainly from the foreign bank community in Taiwan which is dominated by U.S.-based bank branches. In 1946, the Treaty of Friendship, Commerce and Navigation (hereinafter referred to as the Treaty) was signed by Taiwan and the United States.106 Under the Treaty, each country agreed to grant the people and companies of the other country national treatment and most-favored-nation status.107 Because of this relationship, Taiwan

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104. See, Art. 41 of the Banking Law of 1989 (announcing that on July 17, 1989, Taiwan abolished the control over interest rates thereby allowing banks freedom to trade).

105. Taiwan's economy has grown at an average rate of 8.8% during the years of 1953-1993. Even with the worldwide economic downturn, Taiwan has managed a 5.87% growth rate for 1993. In 1993, Taiwan was the 13th major trading nation with a trading volume of $160 billion (unless otherwise indicated, the currency unit appearing in this paper is in U.S.Dollars($). Taiwan's Gross National Product [hereinafter "Taiwan's GNP"] of U.S.$220 billion was the 20th largest, and the per capita GNP was the 25th highest in the world in 1993. Taiwan's current account trade surpluses reached U.S.$84.0 billion which ranked 3rd in the world at the end of February 1998.


107. Ibid, at Arts. 2 & 16. After the United States recognized the People’s’s Republic of China [hereinafter “China” or “Mainland China”] in 1978, the Taiwan Relations Act, 22 U.S.C.A. Sections 3301-3316 (West Supp. 1980) was promulgated and became effective as of January 1, 1979. According to Section 3303 (c), the United States approved the continuation in force of all treaties and other international agreements entered into between two countries prior to January 1979, unless and until terminated.
has witnessed a turbulent boom in its trade with the United States. Meanwhile, the United States remained the biggest trade partner with Taiwan, and Taiwan developed a large trade surplus with the United States. In order to reduce the trade surpluses with Taiwan, the USA-ROC (Taiwan) and ROC-USA Business Councils were formed in 1976, and an annual joint conference was held in either Taiwan or the United States.

Originally, Taiwan's government welcomed the coming of American banks. Yet at each annual joint conference, the U.S. delegation continuously requested that Taiwan open its domestic financial market to the U.S.-based banks. Since the U.S.-based banks had many branches in Taiwan, American banks also made their voice heard through the American Chamber of Commerce in Taipei (AmCham), which provided members of the U.S. delegation in the annual joint conference. But even after Taiwan severed diplomatic ties with the United States in 1979, Taiwan welcomed European banks establishing new branches. The extension of new licenses to foreign banks looking to establish offices in Taiwan has also helped Taiwan in its diplomatic relations with other countries.

Since the treaty has not been terminated, nationals of both countries still enjoy the most-favored-nation status and national treatment in the fields of banking and commerce.


109. The USA-ROC (Taiwan) (which used the name of USA-ROC Economic Council until 1996) and the ROC-USA Business Councils are private, non-profit associations, and were formed at Washington, D.C. and Taipei, respectively, in 1976 as the only Taiwanese-American organizations to foster trade and business relations. The USA-ROC Business Council is a major factor in the business dynamic between the United States and Taiwan, especially given the absence of normal diplomatic relations. By working closely with the American Institute in Taiwan, the American Chamber of Commerce in Taipei, the U.S. Department of Commerce, the United States Trade Representative, the Small Business Administration, and the Trade Development Agency, the USA-ROC (Taiwan) Business Council increased the influence of U.S. business on Taiwan business policy.

110. Each year, the US-ROC Business Council and its counterpart in Taiwan, the ROC-US Business Council, co-host a three-day Annual Joint Business Conference. For instance, the 21st Joint Business Conference was held from December 1-4, 1997 in San Diego, California, and the 22th Joint Business Conference is scheduled to take place at Taipei, Taiwan, in Winter 1998.
The foreign banking community in Taiwan continuously encouraged the Ministry of Finance (MOF), Taiwan's major banking supervisory agency, to take reform measures, and advocated a more liberalized environment in which to conduct business. Taiwan was pressured by foreign bank lobbies to accelerate the move toward financial internationalization. At the same time, Taiwan was pressured to liberalize local banking, as the local business and financial communities increasingly resented the exclusive position of the government banks and the special influence of foreign banks. Nevertheless, private native entrepreneurs were still not allowed to establish banks in Taiwan.

Banking internationalization in Taiwan means the process of liberalizing foreign banks so that they stand on equal footing with local banks. Further, privatization of the government-owned banks, and authorizing local entrepreneurs to establish commercial banks, will foster a "level playing field" of fair competition among the three bank "players,"— foreign banks, government-owned banks, and private commercial banks.

In addition, Taiwan aspires to become a regional operations center for multinational corporations operating in the Asian Pacific region by implementing the Plan for Developing Taiwan as an Asia-Pacific Regional Operations Center. An integral part of Taiwan's plan is the promotion of Taipei as a regional financial center. To be successful, Taiwan must move toward further financial liberalization by amending the Banking Law of 1992 to enlarge the scope of banking operations.

The Banking Law of 1989 changed the limits on lending and deposit interest rates. Under the Banking Law of 1989, Taiwan also enhanced the power of financial authorities to supervise banks and limit the extension of credit to banks' staff members, or to any person who was an interested party of the bank's own responsible officers. Additionally, under these 1989 reforms, Taiwan's MOF

111. See, Asian-Pacific Regional Operations Center Plan and Lawrence S. Liu, "Aspiring to Excel—The Uneasy Case of Implementing Taiwan's Asia-Pacific Regional Operations Center Plan" Columbia Journal of Asia Law Vol.10 (Spring 1996), pp. 199, 201.

112. See, Liu, supra note 72, p. 77.

113. On October 30, 1992, Taiwan promulgated the twelfth amendment of Banking Law to primarily relax restrictions on the number of bank branches and the establishment of new private banks, as well as to expand foreign banks' business scope based on the principles of national treatment.

can determine the criteria for entry into the banking industry by new banks.\textsuperscript{115}

On June 26, 1991, in the first round of applications for new commercial banks, the MOF approved fifteen out of nineteen applications, yielding a much higher number of successful applicants than initially anticipated. In the second round of applications in 1992, the MOF approved only one license. Applicants for new bank licenses must provide a minimum paid-in capital of New Taiwan Dollar 10 billion (the equivalent of US$380 million) in cash,\textsuperscript{116} effectively limiting license applications to wealthy industrialists and conglomerates. Along with the establishment of these new private banks, two of Taiwan's trust companies were also permitted to convert into commercial banks.\textsuperscript{117} These trust companies perform similar functions and services as commercial banks and were allowed to convert as a result of the financial sector pressure on the government to liberalize the banking industry.

In other words, foreign banks acted as forerunners to speed up the pace of financial internationalization and liberalization.\textsuperscript{118} For example, before 15 new private domestic commercial banks were licensed in 1990, there were already local branches of over 30 foreign banks in Taipei. No local private commercial banks had been allowed to be established in the forty years since the Taiwanese government was established in 1949.\textsuperscript{119}

\textsuperscript{115} Art. 52 of Banking Law, amended on July 17, 1989, states that "[t]he requirements of establishments of a bank or a financial institution in accordance with this Law or other laws shall be prescribed by the central competent authority." On April, 1990, these criteria, named Criteria for Establishment of New Bank, were promulgated, and two days later, the MOF began accepting applications for the establishment of new commercial banks.

\textsuperscript{116} Unless otherwise indicated, all amounts listed are calculated in U.S. dollars, rather in New Taiwanese dollars at a rate of US$1=NT$ 34.60 as of September 9, 1998.

\textsuperscript{117} The MOF approved China Trust Company, an affiliate of Koo's Group, on July 2, 1996, and Cathay Trust Company on September 5, 1994 to convert into commercial banks as these two trust companies raised their capitalization to more that U.S.$ 380 million based on Banking Law's requirement. See, "Taiwan: Taiwan to Approve Cathay Trust's Bank Conversion." \textit{Reuter News Service-Far East}, September 5, 1995, \textit{available in LEXIS, ASPAC Library, Taiwan File}.

\textsuperscript{118} Art. 116 of the Banking Law of 1992 defining that a "foreign bank" is a local branch of a foreign bank recognized by the Taiwanese government but organized and registered under the laws of a foreign country.

\textsuperscript{119} During this span of time, Taiwan has allowed the establishment of three banks with capital from overseas Chinese in order to serve its political purpose of attracting additional overseas Chinese to invest in Taiwan. These three overseas Chinese-owned capital banks are Bank of Overseas Chinese, United World Chinese Commercial Bank, and the Shanghai Bank.
In order to face the changing financial environment, the 1989 amendments to the Banking Law delegated authority to the MOF to promulgate rules to permit new private banking business\textsuperscript{120} without further legislative approvals from the Legislative Yuan (the highest organ of the legislative power in Taiwan).\textsuperscript{121} The single most important element of the amendment provides the MOF with significantly greater flexibility in rule-making in order to respond to market forces.

On November 18, 1992, the MOF promulgated the "Regulation Governing the Applications from Banks to Conduct New Financial Business" (New Financial Business Regulation).\textsuperscript{122} Under the New Financial Business Regulation, "new financial business" ("NFB") is defined as the innovation, the extension, or the combination of the existing authorized business, or any business which has never been approved before by the MOF.\textsuperscript{123} A bank that wishes to apply for a license to operate as NFB is required to submit an application to the MOF describing each of the following: the evolutionary process of the proposed NFB; all forms used for the NFB; the NFB’s operational procedures; an analysis of the impact on customers; the legal basis for the NFB and its impact on other laws and regulations; the personnel and equipment used for the NFB; and an evaluation of the prospects, the risks, and the efficiency of the NFB.\textsuperscript{124}

Taiwan also amended the Banking Laws of 1989 in accordance with the internationalization of the banking sector. The government has publicly stated that Taiwan desires to replace Hong Kong as the new financial center of Asia now that the People’s Republic of China took over Hong Kong on July 1, 1997. To promote international financial activities, Taiwan has encouraged foreign banks

\textsuperscript{120} Based on the amendment of the Banking Law in 1989, the Ministry of Finance passed Criteria Governing the Establishment of Commercial Banks [hereinafter "Private Commercial Banks Regulations"]. Based on the Private Commercial Banks Regulation, Taiwan granted licenses to 16 to 19 applicants. The new banks, which opened in 1992, created a new banking era in Taiwan and started to compete with government-owned banks. See, Lawrence S. Liu, “Brave New World of Financial Reform in Taiwan, The Republic of China—Three Waves of Internationalization and Liberalization and Beyond.” Chinese Yearbook, 1994, pp. 134 & 203.


\textsuperscript{123} Ibid, Art. 1.

\textsuperscript{124} Ibid, Art. 2.
to establish offshore banking branches in Taiwan since 1990 in accordance with the Guidelines for the Screening and Approval of the Establishment of Branches and Representative Offices by Foreign Banks.\textsuperscript{125}

After amendment of the Banking Law in 1989, there remained several unaddressed issues which still require treatment by Taiwan banking authorities. Despite the internationalization and liberalization effected by the amendments of 1989, many concerns of foreign banks regarding business activities and funding (which are of vital importance to nurture a genuine and wholesome international banking environment) still remained unresolved. The lack of resolution was probably caused by the fact that unless the MOF was convinced that the relaxation of restrictions over foreign banks would not hamper the normal operation of the financial market, it tended to take a conservative attitude towards the requests of the foreign banking community in Taiwan.

For example, the MOF set a deposit ceiling only for foreign banks, and this caused continued concern on the part of foreign banks seeking additional liberalization. Further, foreign banks operating in Taiwan considered the liabilities incurred by their branches in Taiwan to be liabilities of their head offices because branches and head offices are the same legal entity.\textsuperscript{126} Therefore, the deposit ceiling imposed upon foreign banks significantly restricted their funding power because Taiwan’s Banking Law requires that the amount of medium-term (1-7 year) loans may not exceed the balance of time deposits received.\textsuperscript{127}

The foreign banks have also repeatedly requested the MOF to allow them to establish multiple branch networks. Before 1986, the foreign banks were allowed to establish only one branch in Taiwan, and were required to locate that branch in Taipei. In 1986, the MOF granted foreign banks with branches in Taipei the right to establish a second branch in Kaohsiung, an industrial center in the southern end of Taiwan and the largest container port in Taiwan.\textsuperscript{128}

\textsuperscript{125} See, Ministry of Finance, \textit{Guidelines for the Screening and Approval of the Establishment of Branches and Representative Offices by Foreign Banks} (1990).


\textsuperscript{127} Art. 72. of Banking Law of 1992.

However, these foreign banks needed more branches to develop consumer banking. The MOF slowly gave in to the pressure. In 1995, the MOF allowed a “one city, one branch” policy, and, in 1996, the MOF allowed foreign banks to open branches throughout the entire island, subject only to the approval of the MOF.

In 1988, the MOF raised the foreign banks’ local currency credit exposure to a single customer from NT$300,000 to NT$500,000 or to ten percent (10%) of the total deposit accepted by all branches in Taiwan, whichever was greater, by amending the existing regulation governing the total credit limit of foreign banks on a single customer. The MOF allows the credit limit in foreign currency to a single customer to be up to 25% of the net worth, equal to the credit limit on a single customer placed upon local banks in local currency loans. However, the AmCham Proposals of 1987, which recommended that the limit of credit extension in local currency for foreign banks be based upon their global capital rather than the local currency deposit accepted by branches in Taiwan, has not been approved by the MOF. Further, AmCham’s proposal to expand competition by allowing both local and foreign banks to participate in the short term money market remained unaddressed by the amendment of the Banking Law in 1989. However, the continued increase of foreign banks in Taiwan’s banking industry will make Taiwan’s national regulation of international financial activities a task of ever-increasing importance.

VII. A PROPOSAL TO REFORM THE FINANCIAL SYSTEM TOWARD 21ST CENTURY: A LEGAL PERSPECTIVE OF TAIWAN’S FINANCIAL REFORM TASK FORCE

The growth of Taiwan’s financial market was nurtured by the stability of its economic development over the past decade. Taiwan’s impressive economic performance stimulated the development of the financial sector. In fact, due to the stable development of the banking sector, Taiwan has twenty of the world’s five hundred largest banks.

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130. Ibid.
132. See, AmCham Proposals of 1987, ibid, pp. 7 & 8.
133. See, Taiwan’s GNP, supra note 105.
In order to respond to the continued trend toward financial internationalization and computerization, Taiwan organized an *ad hoc* Financial Reform Task Force in March 26, 1997.\(^{135}\) The Financial Reform Task Force was established to propose guidelines for updating Taiwan's financial system.\(^{136}\) The Financial Reform Task Force streamlined the nation's financial systems, including the banking, securities, insurance, and capital markets, in line with its conclusions reached at the December 23-28, 1996 National Development Conference.

In January of 1998, the Financial Reform Task Force released seventeen suggestions which were submitted to the MOF for consideration.\(^{137}\) In the future, based on the recommendations presented, Taiwan's banks would provide various new conveniences to customers.\(^{138}\) The reform proposal would allow commercial banks to become involved in the investment banking business modeled along the lines of the revised universal banking model applied in the United Kingdom. Also, banks would be allowed to conduct full-fledged securities business and could issue financial bonds or bank notes.

\(^{135}\) In addition to finance ministry officials, the Financial Reform Task Force also included scholars, finance experts and officials of the Central Bank of China. The Financial Reform Task Force propose a package of financial sector reform similar to Japan's "big bang."

\(^{136}\) See, Sofia Wu, "Financial Reform Task Force to Be Formed Soon", *Central News Agency*, Feb. 11, 1997 (available in Lexis, World Libral File)

\(^{137}\) In January of 1998, the Financial Reform Task Force presented seventeen recommendations [hereinafter Financial Reform Task Force Recommendations] to the Ministry of Finance for further discussion. These seventeen suggestions include: 1) internationalization of the banking system, 2) effective upgrading of state-owned financial institutions, 3) strengthening the credit guaranteed to small- and medium-sized business, 4) establishment of professional monitoring over the monetary market, 5) improvement of the risk management of local financial institutions, 6) legislation governing the financial institutions that issues treasure bills, 7) establishment of compliance officers, 8) asset-banked securities 9) enlargement of participants into the monetary market and the development of new monetary innovations, 10) enlargement of participants into securities market and future market development of new financial innovations, 11) the development of investment, 12) the research of reinvestment of financial institutions, 13) the development of a credit ranking system for financial institutions, 14) the prevention of insider lending, 15) review of the underwriting, 16) establishment of asset management, and 17) establishment of investor protection.

\(^{138}\) Taiwan drafted legislation which simplified multiple agency responsibilities to strengthen banking supervision. Once the drafted legislation is approved by the Legislative Yuan (Taiwan's equivalent of the U.S. Congress), the CDIC will compel supervision of the management of financial institutions. This draft legislation raises the penalties to banks who are negligent in monitoring internal control. See, Laura Tyson, "Growing Demands for Diverse Products" *Financial Times*, October 7, 1997, survey III.
The goal of the Financial Reform Task Force is to maintain financial market order and prevent irregularities. Though Taiwan's banks have usually received good ratings by prestigious international research organizations, Taiwan's securities market lags behind, due mainly to insider trading issues. In line with its financial liberalization and internationalization policy, Taiwan recently eased restrictions on banking, securities and bond market operations for financial institutions which could meet international standards for risk management and capital availability.

The Financial Reform Task Force proposed higher ceilings on bank investment in securities and in other businesses. At present, Taiwan's banks are required not to invest more than 15 percent of their net assets in stocks, and the ceiling for investment in other businesses is set at 40 percent of their net worth. In addition, the Financial Task Force suggested that banks should be allowed to invest in stocks traded on over-the-counter markets.

Other major topics the new Financial Reform Task Force considered include the following: reforms of grassroots financial institutions, the efficiency of state-run financial institutions, the credit ratings of various financial institutions, varying methods to assist small- and medium-sized enterprises in obtaining low-interest loans, financial inspections, and the improvement of the bank deposit insurance system.

One of the major reform recommendations by the Financial Reform Task Force relates to the internationalization of Taiwan's banking system. In order to internationalize Taiwan's banking system and regulations, the Financial Reform Task Force suggested that Taiwan adopt the internationally-recognized Basle Accords. The Financial Reform Task Force suggested that Taiwan could learn from the past experiences of other countries such as the United Kingdom and the United States and the success they have had in


141. See, Financial Reform Task Force Recommendation, supra note 137 (recommending that in addition to restructuring the banking system, the Ministry of Finance should focus on the protection of banking depositors by creating low-cost loan and deposit insurance system).
supervising their banking systems using the framework of the Basle Accords.142

The Basle Core Principles for Effective Banking Supervision ("Core Principles") recommend a comprehensive set of basic supervisory principles for international banking supervisory authorities.143 In reference to the Core Principles, the Financial Reform Task Force outlined four suggestions for the future of Taiwan's supervisory framework: maintenance of the liquidity of banking assets (solvency ability), avoidance of excessive exposure, ensuring capital adequacy, and strengthening surveillance of banking managers.

Although Taiwan has enacted the Basle Accords into the Banking Law of 1989 by requiring eight percent of risk-weighted assets to ensure capital adequacy,144 the lack of definition as to the risks for banking shareholders' equity created confusion about the enforcement of this regulation. To solve this confusion, the Financial Reform Task Force suggested that the Banking Law be amended to add market risk into the formula for evaluating bank operation risk in accordance with the Basle Accord.145 For example, if the same assets were invested in two banks, the difference risk environments of these two banks would cause each to employ different risk management. Since the banking management is variable, an evaluation of a banking operation's ability based on the fixed ratio of assets is unable to reflect the capabilities of the bank's risk management. By reevaluating the banking asset risk, Taiwan's

142. See, Financial Reform Task Force Recommendations, supra note 137, p. 1 (recommendation 1: internationalization of the banking system.)

143. The Basle Committee, The Basle Core Principles for Effective Banking Supervision, released on September 22, 1997, International Legal Materials Vol. 37 (1998), pp. 405-439 (presenting a comprehensive set of twenty-five Core Principles that have been developed by the Basle Committee as a reference point for effective banking supervision. The Basle Core Principles are designed to be applied by all countries in the supervision of banks in their jurisdictions).

144. In enforcement of Art. 44 of the Banking Law of 1989 regarding capital adequacy, the Ministry of Finance promulgated Regulation Governing the Scope and Measure of A Bank's Shareholders' Equity to Its Risk Weighted Assets and the Restricted Distribution of Surplus Profits in April 1992. This Regulation provides sanctions for banks whose capital adequacy rate is less than 8%. A bank capital adequacy ration between 6% and 8% will receive a restriction of surplus profits by cash or no more than 20% of post-tax income. A bank capital adequacy ration less than 6% will receive a restriction of distributing surplus profits by cash.

145. The Basle Committee, The Prudential Supervision of Netting, Market Risk and Interest Rate Risk (1993), which is a supplement to International Convergence of Capital Measurement and Capital Standards.
banking system will create additional competition and reduce the cost of ensuring capital adequacy.

Finally, the Financial Reform Task Force recommended strengthening the monitoring of banking managers. This was suggested largely to combat Taiwan's prior problems with insider lending and the lending to the interested parties of banks. Consumer protection in the form of liquidity and solvency requirements were also viewed as important suggestions which could prevent crises of confidence and bank runs. Furthermore, to avoid excessive exposure, the Financial Reform Task Force suggested minimum standards of necessary collateral for consumers in order to secure bank loans.

VIII. CONCLUDING OBSERVATIONS

While Taiwan's financial market has rapidly integrated into the world financial market, Taiwan also faces important new challenges in supervising the international banking sector in an age of increased international financial integration. As a result, the goal of Taiwan's banking system should be to strengthen supervision and to promote liberalization, internationalization, and banking discipline. Substantial implementation of the Basle Accords would help Taiwan achieve its goal of maintaining a safe and sound financial system and of establishing Taipei as a regional financial center in Asia.

The Basle Accords, a comprehensive prudential regulation and supervision plan for financial markets, will allow Taiwan to preserve the stability of both its monetary and financial systems. Taiwan will benefit from implementation of this "soft law" of international banking supervisory regulations, which covers key aspects of prudential rules, the architecture of the banking supervisory environment, the international division of responsibility for supervision, and the consolidation of supervisory information.

To further liberalize the financial market and to boost its standing for entry into the World Trade Organization (WTO),

146. See, Lawrence L.C. Lee, "Adoption and Application of a "Soft Law" Banking Supervisory Framework based on the Current Basle Accords to the Chinese Economic Area." Wisconsin International Law Journal, Symposium Issue, (January 1999) (emphasizing that a "soft law" is a legally significant international rule emanating from a meeting of specific national authorities and adopted into their national laws or administrative codes. Notably, once a country implements a soft law's principles, the soft law then attains legally binding force and becomes hard law within that country).

147. The World Trade Organization [hereinafter WTO], the descendent of the General Agreement on Tariffs and Trade [hereinafter "GATT"] evolving from the conclu-
Taiwan is making every effort to modify its relevant regulations to accord with the WTO's requirements.\textsuperscript{148} Taiwan has taken the initiative to open up both financial markets and banking operations to meet international demands, especially those from the United States and China, while taking into consideration the dual concerns of market access and national treatment. Further liberalization of financial services is predictable and inevitable in Taiwan's financial markets given the trend of continued and expanding international banking.

However, greater liberalization of financial services has created challenges for Taiwan's banks which are only slowly emerging from decades of heavy-handed government regulation. In contrast to the government's conservative and protective financial policies in past decades, Taiwan's latest banking system reforms serve to make Taiwan an increasingly attractive intermediary for the international banking sector.

The legacy of Japanese colonial control made supervision by Taiwanese authorities over a complex banking system extremely difficult. To combat this difficulty and to face the future of a diversified and multi-functional national banking sector, reform and unification of Taiwan's complicated banking system and reevaluation of its banking policies has become a priority.

In further liberalizing Taiwan's financial system, Taiwan must provide incentive to banks for prudent, safe, and sound banking practices. The crafting of incentives will require the following: bolstering the supervision and oversight of Taiwan's financial system, with particular attention to enforcement; strengthening regulations

\begin{itemize}
\item \textsuperscript{148} sion of the Final Act of the Uruguay Round in 1994, is the new institution designed to help facilitate international cooperation on trade and economic relations. In order to organize a permanent multilateral organization, the WTO was created by the Marrakesh Agreement Establishing the World Trade Organization, reprinted in \textit{International Legal Materials} Vol. 33 (1994), p. 1125. The WTO, which came into being on January 1, 1995, rests on three pillars: negotiated liberalization of trade, the spread of the benefits of greater market access to all members through non-discrimination, and enforcement of the WTO's regulation to promote world trade and resolve trade disputes. The WTO oversees the implementation of trade agreements negotiated under auspices of the GATT or WTO. The WTO evaluates periodically the trade practices of its members and organizes future multilateral trade negotiations. The WTO also adjudicates trade disputes arising from the WTO-related trade agreements. \textit{See}, "Fifty Years On." \textit{Economist} (May 16, 1998) p. 21.
\item \textsuperscript{148} See, Robert P. O'Quinn, "Bringing both China and Taiwan into the World Trade Organization." \textit{Chinese Yearbook of International Law and Affairs} Vol. 14 (1995-96), pp. 19 & 25 (mentioning that Taiwan's efforts liberalise its market to implement all WTO's requirements in order to become a member of the WTO).
\end{itemize}
to foster market discipline; and improving the quality and timeliness of information disclosed to the public. These measures will help discipline market participants.

Banking internationalization will be the focus of Taiwan’s push to liberalize as Taiwan prepares for a greater role in international trade.\(^{149}\) Taiwan’s progress in financial liberalization and the prospects of joining the World Trade Organization promise to open the local market even further to global competition. Taiwan must strive to reform its national banking system in order to meet the requirements of WTO membership and the General Agreement on Trade in Service’s criteria of liberalization and free competitiveness.\(^{150}\)

American dominance in international finance, coupled with Taiwan’s strategic relationship with China and the foreign investment relationship between China and the United States, will continue to compel Taiwan’s liberalization.

With the international banking system increasingly fragile, banking in Taiwan remains a high-risk business, and collaboration between both domestic and international banking policy makers is necessary to monitor and eradicate potential risks. In light of increased global competition and the growth of new and unfamiliar financial derivatives, the possibility of financial stress demands that Taiwan’s authorities strengthen regulatory compliance and discipline in the Taiwanese financial market.

In order to meet Taiwan’s banking reform and economic development needs,\(^{151}\) the Financial Reform Task Force advocated various measures of financial liberalization to help facilitate the price mechanism of the financial markets and to increase the efficiency of financial institutions. Meanwhile, policies of financial internationalization will gradually integrate Taiwan’s financial markets with international markets, thus helping Taiwan to become a regional financial center. To ensure normal development in the financial


\(^{150}\) General Agreement on Trade in Service [hereinafter GATS] brought the service industry into the WTO, which had become the umbrella organization for the General Agreement on Tariffs and Trade. See, GATS, Apr. 5, 1994, in 28 Uruguay Round of Multilateral Trade Neg. 22595 (1994), reprint in International Legal Materials. Vol. 33 (1995), ? Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, GATT Trade Negotiations Committee Document MTN/FA II-A1B, General Agreement on Trade in Services (Marrakesh, as signed on April 15, 1994). GATS established a Most Favored Nation principle to rapidly open market for services which contains financial services, telecommunications, and maritime transport.

system, however, strengthening compliance and compelling obedience to banking regulations will be increasingly necessary.

To that end, Taiwan must actively draft and amend relevant financial laws and regulations in order to solidify a sound financial system, strengthen the framework of financial inspections, and increase the efficacy of financial supervision. Taiwan’s financial system’s soundness and safety is essential for national macroeconomic stability, as well as economic growth and prosperity. When promoting stable macroeconomic policies and structured environments in the banking sector, Taiwan should identify problems early and develop appropriate measures to maintain or restore soundness and safety in its financial system. Preventing any future banking collapses from growing into a financial crisis should serve as a main goal of Taiwanese banking supervision.

152. The Asian financial crises also resulted from the weakness in affected countries macroeconomic policies. For example, the Thai economy contained considerable imbalances: substantial, unhedged foreign currency, excess denominated borrowing by private sector, an inflated domestic property market, and a weak and overexposed banking system. The 1997 Asian crises pointed up the necessity of taking early action to correct macroeconomic imbalances before they can precipitate a crisis. See, “What Are the Lessons of the Southeast Asia Crisis?” International Monetary Fund Survey Vol. 26 (December 1, 1997), p. 372.
Glossary: Selected Chinese Terms & Names

American Chamber of Commerce in Taipei 台北美僑商會
Amoy 廈門
Asian Pacific Region Operation Center Plan 亞太營運中心計畫
Bank of China 中國銀行
Bank of Communications (台灣) 交通銀行
Bank of Japan 日本中央銀行
Bank of Taiwan 台灣銀行
Big Property Leases 大租權
Central Bank of China 中央銀行
Central Trust of China 中央信託局
Changhua Forth Credit Union 彰化四信信用合作社
Chang Hwa Commercial Bank 彰化商業銀行
Chiao Tung Bank (台灣) 交通銀行 (1992年以後)
Chungli Farmers' Association 中壢市農會
Cooperative Bank of Taiwan 台灣省合作金庫
Executive Yuan 行政院
Fa Pi 法幣
Farmers' Bank of China 中國農民銀行
Financial Reform Task Force 金融革新小組
First Commercial Bank 第一商業銀行
Fuchien Province 福建省
Fuchou 福州
Gold Yuan Note 金圓券
Guidelines for the Screening and Approval of the Establishment of Branches and Representative Offices by Foreign Banks
Hwa Nan Commercial Bank 華南商業銀行
Imperial Bank of China 中國帝國銀行
International Commercial Bank of China 中國國際商業銀行
Japan Kungyo Ginko Bank 日本勸業銀行
Land Bank of Taiwan 土地銀行
Law of Production Cooperative Society 日本產業組合法
Legislative Yuan 立法院
Ma Kuan Treaty 中日馬關條約
Matsu 馬祖
Merchant House 媽振館
Ministry of Finance 財政部
New Taiwan Dollar 新台幣
Old Taiwan Dollar 舊版台幣
Osaka Chung Li Bank 日本大阪中立銀行
Overseas Chinese Bank 華僑商業銀行
Pen-ghu Island (the Pascadores) 澎湖
Program of the Adjustment of the National Government-owned Enterprises 國營企業調整方案
Regulation Governing the Applications from Banks to Conduct New Financial Business 銀行申請經營新業務管理辦法
Regulation Governing the Disposition of the Bank Notes and the Financial Institutions in the Taiwan Province 台灣省當地銀行鈔票及金融機構處理辦法
Regulation Governing the Liquidation of the Private Financial Institutions in Taiwan 省商營金融機構清理辦法
Rules Governing the Production Cooperative Society in Taiwan 台灣產業組合規則 (日據時代名稱)
Sanwa Bank Ltd. of Japan 日本三和銀行
Savings Department of the Bank of Taiwan 台灣銀行儲蓄部
Savings Wu Ching Company 台灣儲財無盡株式會 (日據時代名稱)
Small and Medium Business Bank of Taiwan 台灣中小企業銀行
Taipei Credit Cooperative Society 台北信用組合 (日據時代名稱)
TaiTun Medium-Business Bank 台南中小企業銀行
Taiwan Commercial and Industrial Bank 台灣商工銀行 (日據時代名稱)
Taiwan Lung Yeh Huei 台灣農業會
Taiwan Mutual Loans and Savings Association and Saving Corporation 台灣人民儲金互濟股份有限公司
Taiwan Production Bank 台灣產業銀行
Taiwan Provincial Administrative Office 台灣省行政長官公署
Taiwan Provincial Government 台灣省政府
Taiwan's Provincial People's Savings and Mutual Loans and Saving Corporation 台灣合會儲蓄股份有限公司
Taiwan Savings Bank 台灣儲蓄銀行
Taiwan Trust Company 台灣信託股份有限公司
Taiwan Tsang Yeh Chin Ku 台灣產業金庫 (日據時代名稱)
Taiwan Tsang Yeh Chu Ho Lien Ho Huei 台灣產業組合聯合會
Tenth Credit Cooperative Society 第十信用合作社
Treaty of Friendship, Commerce and Navigation
中華友好通商通航條約
Trust Department of the Hwa Nan Commercial Bank 華南銀行信託部
Underground Financial Sector 地下金融
Underground Investment Companies 地下投資公司
USA-ROC (Taiwan) and ROC-USA Business Councils 中美工商促進會
Wu Ching Yeh 無盡業
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