

# **GUIDE TO FOREIGN INVESTMENT IN REAL ESTATE IN TAIWAN, ROC**

## **I. BACKGROUND**

In order to adapt to the international economic liberalization, increase the efficiency of foreign capital investment, promote better use of foreign technical know how in the exploitation of land resources, and based on the principle of reciprocity, aliens or foreign companies are permitted to acquire land in Taiwan, ROC, according to the regulations specified in Article 18 of the Land Law, excluding lands used for forestry, aquaculture, hunting reserves, salt plants, mineral deposits exploitation, water resources, military bases and areas, and land adjacent to the national frontiers as defined in Article 17 of Land Law. Aliens and foreign companies can also make investment in real estate or other industries in the country that may increase foreign investments in ROC industries, provided that the investments are helpful to major infrastructure projects, to the overall economy, or to agricultural and animal husbandry industries according to related articles of the Land Law that were amended and promulgated on 31 October 2001.

## **II. REGULATIONS GOVERNING THE ACQUISITION OF LAND IN TAIWAN BY FOREIGNERS**

- A. Principle of reciprocity: Only foreigners from countries that allow ROC citizens to acquire land may enjoy the same rights to acquire land in Taiwan, ROC. (Article 18, Land Law)
- B. Types of land: Land for forestry, aquaculture, hunting reserves, salt plants, mineral deposits exploitation, water resources, military base and areas, and land adjacent to the national frontiers shall not be transferred to, used as collateral by, or leased to foreigners. (Article 17, Land Law)
- C. Purposes of land use: Foreigners may acquire land for personal use, investment or public welfare purposes to build residences, as business sites, for office buildings, shops, factories, churches, hospitals, schools for children of foreigners, embassies or consulates, public welfare institutions offices, or cemeteries. In addition, foreigners may be allowed to acquire land for investments helpful or useful in major infrastructure projects, overall economic development, or agricultural and animal husbandry industries that are approved by the government authorities concerned. (Article 19, Land Law)

## **III. APPLICATION PROCEDURES**

- A. General Procedure

Foreigners acquiring land for purposes specified in Item 1, Paragraph 1, of Article 19 of the Land Law shall file an application with relevant documents to the local land registration office before forwarding it to the concerned city or county government for final approval. (Article 20, Land Law)

B. Procedure to Acquire Land for Investments in Major Infrastructure Projects, Overall Economic Development, or Agricultural and Animal Husbandry Industries

According to Item 8, Paragraph 1, of Article 19 of the Land Law, land acquisition for large investments in domestic infrastructure projects, overall economic development, or agricultural and animal husbandry industries shall first be approved by the ministries concerned. The land acquisition application may then be submitted according to the procedure specified in Paragraph A. (Article 20, Land Law)

#### IV. ACQUISITION OF LAND PROCESS FOR FOREIGNERS

A. Applicable Regulations: Articles 17 to 20, Land Law of the ROC.

B. Competent Agency: Land Registration Office where the land is located.

C. Documents required:

- i. Application for land registration.
- ii. Identity documents of landowner, leaseholder, and buyer.
- iii. Transaction and transfer agreement.
- iv. Tax payment or tax exemption certificates.
- v. Documents of reciprocity (This requirement may be waived for foreigners from countries listed in the List of Reciprocal Nations for Foreigners Acquiring Land in Taiwan, ROC).
- vi. Land Zoning certificate (This requirement may be waived for non-urban land).
- vii. Land title deed.
- viii. Power of attorney.
- ix. Other documents of evidence required according to the provisions of the Central Land Administration.

D. Processing time: 7 to 14 working days for approval.

E. Cost

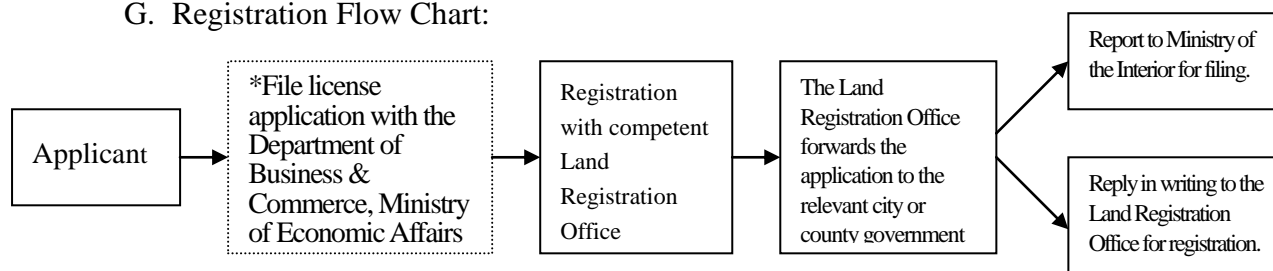
According to the Land Law, 0.1% of the value of land rights shall be paid as registration fee when applying for alteration of land rights.

F. Land Registration System of Taiwan, ROC:

The land registration in Taiwan means the registration of the rights and other

interests associated to land and buildings, also known as registration of real estate. The land registration office shall be liable to indemnify the actual proprietor for damage or loss incurred from errors, omissions or falsification made during registration by the land registration office concerned in order to protect the effective land rights and interests obtained by the third party *for* trust registration. After registration of land or building rights and interests, a title deed or certificate of ownership will be issued as proof that the proprietor is entitled to such land or buildings rights and interests.

G. Registration Flow Chart:



Remarks: \*1. If a foreign company opens a branch office in Taiwan, ROC, for the first time, it should file a license application with the Department of Business & Commerce, Ministry of Economic Affairs; tel: 886-2-23968137 ext. 4.

2. Please contact Department of Land Administration, Ministry of the Interior at 886-2-23565246 or 886-2-23565248 for information on land acquisition. Further information on licenses for a foreign company may be available from the Department of Business & Commerce, Ministry of Economic Affairs, at 886-2-23968137 ext. 4.

## V. PROCESS FOR LAND ACQUISITION FOR INVESTMENT IN MAJOR NATIONAL INFRASTRUCTURE ROJECTS, OVERALL ECONOMIC DEVELOPMENT, OR AGRICULTURE AND ANIMAL HUSBANDRY INDUSTRIES

A. Applicable Regulations: Regulations Governing Foreigners' Acquisition of Land for Investments in Major National Infrastructure Projects, Overall Economic Development, or Agriculture and Animal Husbandry Industries.

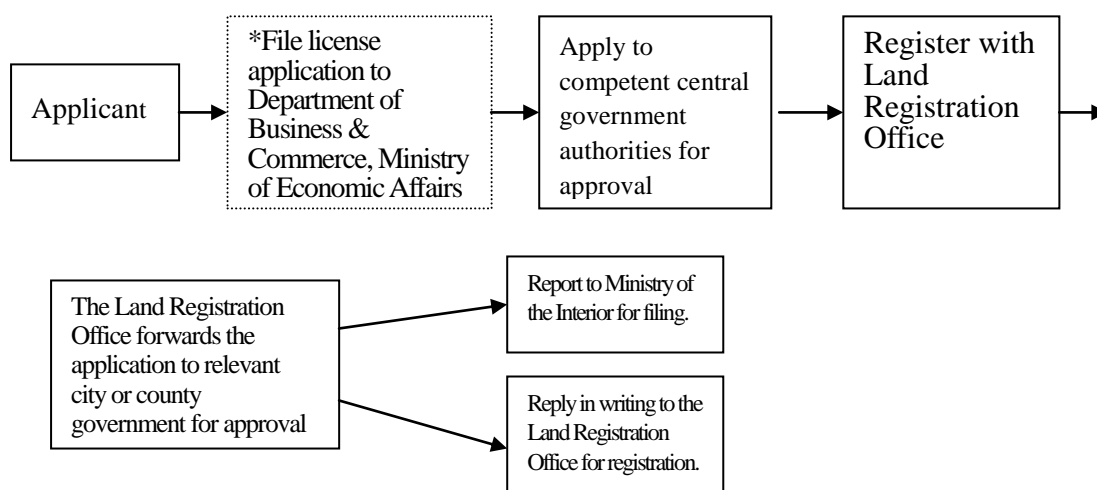
B. Competent Agency: Apply to the competent central government authorities for approval. (For example, the competent government authority for tourist hotels is the Tourism Bureau, Ministry of Transportation and Communications.)

C. Documents required:

i. Application for Land Acquisition by Foreigners (refer to Appendix III).

- ii. Applicant's identification documents. If the applicant is a corporate body, the business license or permit shall be required.
  - iii. Investment proposal.
  - iv. Copies of land registration and cadastral maps.
  - v. Certificates of Land Zoning (This requirement may be waived for non-urban land).
  - vi. Certificates of agricultural use of the land or certificate of compliance with restrictions on the use of certain lands. (In case of farmland, the certificate shall be required).
  - vii. Documents of reciprocity (This requirement may be waived for foreigners from the countries listed in the List of Reciprocal Nations for Foreigners Acquiring Land in Taiwan, ROC).
- D. The applicant may apply for land acquisition as indicated in Section IV upon receipt of written approval from central government authorities.

E. Flow Chart:



\*Remarks: Refer to the remarks of Item F, Section IV (page 4) .

## VI. INVESTMENT IN MAJOR INFRASTRUCTURE PROJECTS, OVERALL ECONOMIC DEVELOPMENT, OR AGRICULTURAL AND ANIMAL HUSBANDRY INDUSTRIES

- A. Investment in major infrastructure projects refers to investment projects that are approved by the central government authorities concerned or reported to the Executive Yuan for approval.
- B. Investment in overall economic development refers to investments as listed below:
  - i. Development of tourist hotels, entertainment and tourist facilities, sport centers or stadiums.

- ii. Residences and buildings.
- iii. Industrial plants or factories.
- iv. Development of industrial zones, business and industry complexes, high-technology scientific parks and other special zones.
- v. Tidal land.
- vi. Construction of public infrastructure.
- vii. Development of new cities/towns and new communities, or urban renovation.
- viii. Other investments items promulgated by competent central government authorities.

C. Investment in agricultural and animal husbandry industries means the investments in compliance with the categories and criteria of technical intensive and capital-intensive agriculture specified and promulgated by the Council of Agriculture (COA), Executive Yuan.

## VII. COUNTRIES LISTED IN THE LIST OF RECIPROCAL NATIONS FOR FOREIGNERS ACQUIRING LAND IN TAIWAN, ROC

Nationals from the countries listed below desirous of acquiring land in Taiwan, ROC, may be exempted from providing reciprocal documents:

### List I : Fully Reciprocal Nations

No	Nation	No	Nation
1	Republic of Korea	2	Japan
3	New Zealand	4	Australia
5	Swaziland	6	Belgium
7	United Kingdom	8	Germany
9	Luxembourg	10	Spain
11	Ireland	12	Greece
13	Honduras	14	El Salvador
15	Panama	16	Dominican Republic
17	Saint Lucia	18	Paraguay
19	Ecuador	20	Brazil
21	Peru	22	Argentina
23	Uruguay	24	Chile
25	United States of America (State Laws)		
25	01 Ohio State	25	02 Nebraska State

No		Nation	No		Nation
25	03	Tennessee State	25	04	Florida State
25	05	Massachusetts State	25	06	New Jersey State
25	07	Connecticut State	25	08	Missouri State
25	09	Delaware State	25	10	California State
25	11	Hawaii State	25	12	Texas State
25	13	Michigan State	25	14	New York State
25	15	Georgia State	25	16	Pennsylvania State
25	17	Wisconsin State	25	18	Illinois State
25	19	Oregon State	25	20	Washington D.C.
25	21	Indiana State	25	22	Virginia State
25	23	Alaska State	25	24	Alabama State
25	25	Arkansas State	25	26	Idaho State
25	27	Kentucky State	25	28	Maine State
25	29	Montana State	25	30	Nevada State
25	31	New Hampshire State	25	32	New Mexico State
25	33	North Carolina State	25	34	Rhode Island State
25	35	Utah State	25	36	Vermont State
25	37	Washington State	25	38	Wyoming State
25	39	Kansas State	25	40	Colorado State
26		South Africa	27		France
28		Netherlands	29		Switzerland
30		Malaysia	31		Canada
32		British Cayman Islands	33		British Virgin Islands
34	Austria (Federal Law)				
34	01	Vienna			
35		Portugal	36		Belize
37		British Guernsey Islands	38		Finland
39		Mauritius	40		Italy
41		Jamaica	42		Ghana

**Ps:** According to Order No. 0970042025 dated March 21<sup>th</sup>, 2008 by MOI, the R.O.C. government allows **Indians** to acquire land rights in Taiwan.

According to Order No. 0970057557 dated April 15<sup>th</sup>, 2008 by MOI, the R.O.C. government allows **The State of Arizona and Louisiana ,U.S.A** to

acquire land rights in Taiwan.

According to Order No. 09702095952 dated December 25<sup>th</sup>, 2008 by MOI, the R.O.C. government allows **Norwegians** to acquire land rights in Taiwan.

## List II : Conditionally Reciprocal Nations

NO	Nation	Condition
1	Singapore	<p><i>* According to communique No. 8702939 dated February 24<sup>th</sup>, 1998 by MOI:</i></p> <p>As to the concern that whether Singaporeans and their corporations, including their financial institutions can be permitted for land acquisition in Taiwan:</p> <p>—The feedback from MOFA, according to the replies which we received from our Representative Office in Singapore, via form of telex No. SG525 dated January 27<sup>th</sup>, 1998, it is our understanding that Singapore’s Ministry of Law has stated:</p> <ol style="list-style-type: none"> <li>1. The Singaporean government permits foreigners (individuals or corporations) to acquire land ownership and mortgage of industrial or business land, as well as housing unit ownership and use as collateral foundation.</li> <li>2. Additionally, according to the stipulations in Article 22 of the Singaporean “Residential Property Act”, such property acting as collateral, the ownership of which can only be transferred to local Singaporeans, or foreigners upon approval by local authorities. However, the maximal duration for such transfers, should be done within 3 years; otherwise the local relevant authorities shall step in.</li> </ol> <p>—Under the reciprocity principle in Article 18 of the “Land Law”, the R.O.C. government agrees, with the exception of the specific types of land as listed in Article 17 of the same law, to permit Singaporean individuals and corporations, including their financial institutions, to acquire properties as collateral foundation.</p> <p><i>*According to communique No. 8906217 dated May 2<sup>nd</sup>, 2000 by MOI:</i></p> <p>The current feedbacks from MOFA:</p> <p>—“Our Representative Office in Singapore, by form of an official diplomatic communique No. 0216 dated March 9<sup>th</sup>, 2000, as well as by telex No. SGP617 dated April 10<sup>th</sup>, 2000, has informed MOFA headquarters, that through effective communication with local authorities at Singapore’s official organization for “Industrial Zoning” Jurong Town Corporation (J.T.C.), the followings information were obtained:</p> <ol style="list-style-type: none"> <li>1. All land pre-destined for any industrial zone, will first be sold by the Ministry Of Law in Singapore, over to J.T.C., thereafter J.T.C. shall be responsible for matters such as operation,</li> </ol>

		<p>leasing and/or renting and management. All such land pre-destined for industrial zoning can not be owned by any private individuals.</p> <p>2. The minimal leasing/renting period of all lands handled by J.T.C. will be 3 years, with a maximal term of 60 years; however, special and specific cases approved are exception. When reaching the full term of the lease/rent contract, all land and factories must be returned back to J.T.C., including all un-removable solid objects such as buildings and fencing will be considered parts of the land.</p> <p>3. Alien individuals are not permitted to own plants/factories, which were already erected on J.T.C.'s industrial zone. Unless, such alien individuals registered with local authorities in Singapore, to set up a company on sight; also under the condition that the alien individual's investment proposal and portfolio meets the investment and industrial purpose standards of J.T.C., then there could be chances for approval to the plants/factories acquisition.</p> <p>— According to the latest data collected from relevant web sites, it was learned that J.T.C. only rents or leases the land, but usually not sold out. Minimum contract term is 3 years and maximum contract term is 30 years. Extension request shall be considered on a case-by-case basis. When reaching full term of the contract, all land, and plant/factory including those erected by the rentee themselves during the contracted term, shall be returned back to J.T.C.</p> <p>Based on the above information, by principle of reciprocity of Article 18 of the "Land Law", Singaporeans may rent or lease land or factories in industrial zones in Taiwan.</p> <p><u>*According to communique No. 0950178966 dated December 8<sup>th</sup>, 2006 by MOI:</u></p> <p>— Basically, the R.O.C.'s government does not allow Singaporeans acquiring land in Taiwan according to the principle of reciprocity of Article 18 of the "Land Law". However, taking into consideration, the differences of culture and laws of both countries, also taking into concern Article 4 Item 2 of the R.O.C.'s "Apartment Building Management Act", the R.O.C. government permits Singaporeans to obtain any floor of strata titled constructional improvements for the purposes of residency or business, as well as grant not only the ownership of the housing unit, but also the proportional ownership of or superficies over the site pursuant to the "Apartment Building Management Act".</p> <p>— The R.O.C.'s government permits Singaporeans to acquire lands listed in Article 17 of the "Land Law" through inheritance. Nevertheless, the said land shall be disposed of to Chinese nationals within 3 years after the completion of the registration of inheritance. If the land is not duly disposed of within this time limit, the Special Municipality or County / City</p>
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		<p>Government shall transfer it to the National Property Bureau for public tendering. The procedure for public tendering provided by Article 73-1 of the “Land Law” shall, mutatis mutandis, apply.</p> <p>—Based on the principle of reciprocity, except the lands listed in Article 17 of the “Land Law”, the R.O.C.’s government allows Singaporeans to acquire land ownership through inheritance or a legacy. However, the land shall be disposed of to Chinese nationals within 10 years after the completion of the registration of inheritance or legacies. Plus, the registration office shall annotate “This land shall be disposed of to Chinese nationals before a given date. If not, it will be tendered publicly” on land registers. Likewise, if the land is not duly disposed of within this time limit, it shall be tendered publicly through the same procedure described in the preceding paragraph.</p>
2	<b>Hong Kong Region</b>	<p><u>*According to communique No. 8684353 dated June 30<sup>th</sup>, 1997 by Ministry of the Interior (MOI) :</u></p> <p>On June 23<sup>th</sup>, 1997 MOI invited R.O.C.’s Mainland Affairs Council of the Executive Yuan, Ministry Of Justice, Ministry Of Foreign Affairs ( MOFA ) , Ministry Of Finance, Ministry of Economic Affairs, as well as officials from provincial and city governments, for a joint conference session. The following conclusions were made:</p> <p>— According to the Article 41 of the “Act Governing Relations with Hong Kong and Macau”, the operation of a Hong Kong or Macau corporate organization in Taiwan shall be governed, mutatis mutandis, by provisions of the Company Law dealing with foreign companies.</p> <p>— In order not to influence the business operated by Hong Kong corporate aggregates recognized and approved by Taiwan laws, they are allowed to acquire land in Taiwan. These presently implemented policies shall not change, even if after the official handover date, July 1<sup>st</sup>, 1997, as long as the government of the Hong Kong Special Administrative Region does not first change its own policies, regarding foreigners’ eligibility to obtain land rights in Hong Kong.</p> <p><u>*According to communique No. 8607355 dated July 26<sup>th</sup>, 1997 by Ministry of the Interior (MOI) :</u></p> <p>— Since its handover to Mainland China on July 1<sup>st</sup>, 1997, only Hong Kong residents who obtains the status of “Overseas Chinese” in accordance with Article 4 Item 3 of the “Act Governing Relations with Hong Kong and Macau” will be allowed to obtain land rights in Taiwan. All other Hong Kong residents, corporate aggregates, groups and organizations are still bind to follow the regulations stipulated currently in the “Operational Directions for Foreigners to Acquire Land Rights in Taiwan”.</p> <p>— These presently implemented policies shall not change, even if after the official handover date, as long as the government of the Hong Kong Special Administrative Region does not first change its own policies, regarding foreigners’ eligibility to obtain land</p>

	<p>rights in Hong Kong.</p> <p><i>*According to communique No. 8612195 dated December 15<sup>th</sup>, 1997 by MOI:</i></p> <p>Concerning the authentication of Hong Kong residents' identities, according to communique No. 8616743 dated November 27<sup>th</sup>, 1997 by the Mainland Affairs Council of the Executive Yuan, it stated:</p> <ul style="list-style-type: none"> <li>— According to the Article 4 Item 1 of the “Act Governing Relations with Hong Kong and Macau”, Hong Kong residents are defined by those who have permanent residency status in Hong Kong, also those who only possess overseas British passport and/or Hong Kong passports.</li> <li>— It is then our acknowledgement that Hong Kong residents, as stipulated by the article, must have permanent residency status in Hong Kong, who only possess overseas British passports and/or Hong Kong passports, but have no other forms of legal travel documents from any other area or country.</li> </ul> <p><i>* According to communique No. 8612643 dated December 30<sup>th</sup>, 1997 by MOI:</i></p> <ul style="list-style-type: none"> <li>— According to regulation Article 5 of the “Enforcement Rules of the Act Governing Relations with Hong Kong and Macau” enforced on June 27<sup>th</sup>, 1997, they clearly state: 「When so called Hong Kong region residents are applying to enter into Taiwan, or who are already in Taiwan but state that they are Hong Kong residents, then the relevant authorities must obtain a written declaration from them, that they only possess overseas British passports and/or Hong Kong passports, but no other forms of legal travel documents.」</li> <li>— Concerning the matter of Hong Kong residents obtaining land rights in Taiwan, besides ID cards of permanent residency status in Hong Kong, they shall provide the above mentioned written declaration as well.</li> </ul> <p><i>* According to communique No. 8706372 dated June 10<sup>th</sup>, 1998 by MOI:</i></p> <p>As far as after the official handover date of Hong Kong back to Mainland China on July 1<sup>st</sup>, 1997, Hong Kong residents are only holding “the Hong Kong Special Administrative Region of the People’s Republic of China” passport, issued by the government of the Hong Kong Special Administrative Region, then whether they are considered Hong Kong residents. According to the communique No. 8707272 dated May 21<sup>st</sup>, 1998 by Mainland Affairs Council of the Executive Yuan, which clearly states:</p> <ul style="list-style-type: none"> <li>— According to regulation Article 3 of the “Enforcement Rules of the Act Governing Relations with Hong Kong and Macau” --- the so called Hong Kong passport, as per Article 4 Item 1 of the “Act Governing Relations with Hong Kong and Macau”, are</li> </ul>
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		<p>passports which are issued by either the government of the Hong Kong Special Administrative Region or other en-powered organization, having full legal travel document pre-requisites, providing Hong Kong residents for international traveling need. Thus, “the Hong Kong Special Administrative Region of the People’s Republic of China” passports, issued by the government of the Hong Kong Special Administrative Region, are the passports mentioned in the previous Act.</p> <p>– The issue of authentication of Hong Kong residents’ identities, according to Article 4 Item 1 of the “Act Governing Relations with Hong Kong and Macau”, authentic Hong Kong residents are those who are holding permanent residency status (an ID card) in Hong Kong, who are only holding overseas British passports and/or Hong Kong passports, but who do not possess any other legal travel documents from any other area or country. Persons only holding the so-called Hong Kong passports should not be legally recognized as Hong Kong residents.</p> <p><u>* According to communique No. 8708266 dated August 5<sup>th</sup>, 1998 by MOI:</u></p> <p>The following guidelines should be strictly followed:</p> <p>– All Hong Kong residents who had obtained the status of “Overseas Chinese” before July 1st, 1997 will continue to be regarded as so and their status will not be effected. For any further doubts, please contact the Overseas Chinese Affairs Commission, for verification purpose.</p> <p>– After July 1<sup>st</sup>, 1997, according to regulations currently being enforced, no more such applications of such “Overseas Chinese” shall be accepted.</p> <p>– The principle for using their “Overseas Chinese” status obtained before July 1<sup>st</sup>, 1997, the original document should be return back to its rightful owner, only after proper inspection. A photocopy shall be handover to the relevant governmental agency. For any issue of dispute, please contact the Overseas Chinese Affairs commission.</p> <p>The above principles have been laid out as communique No. 860008186 dated November 10<sup>th</sup>, 1997, as well as by communique No. 870039422 dated June 29<sup>th</sup>, 1998, both of which were issued by the Overseas Chinese Affairs Commission. Thus, if any application for land registration in Taiwan arises from a request made by a Hong Kong resident who had had the status of “Overseas Chinese” before July 1st, 1997, kindly follow the above given guidelines.</p>
3	Philippines	<p><u>*According to communique No. 8683016 dated October 22<sup>nd</sup>, 1997 by Ministry of the Interior (MOI) :</u></p> <p>On October 8<sup>th</sup>, 1997 MOI invited R.O.C.’s Ministry Of Justice, Ministry Of Foreign Affairs ( MOFA ) , Ministry Of Finance, Ministry Of Economic Affairs, as well as officials from provincial and city governments, for a joint conference session. The following conclusions were made:</p>

	<ul style="list-style-type: none"> <li>– According to Article 18 of the R.O.C.’s “Land Law”, only foreigners whose home countries, pursuant to treaties or their domestic laws, entitle R.O.C. nationals to the same rights, may acquire land in Taiwan.</li> <li>– Also, according to Article 4 Item 2 of the R.O.C.’s “Apartment Building Management Act”, the exclusive area of strata titled constructional improvements ( i.e. apartments or buildings ) should be transferred or set liability together with the entitled share of the common area of the building, and of ownership of or superficies over the site.</li> <li>– Concerning the Philippine government’s attitude toward allowing R.O.C. nationals to land acquisitions, according to communique No. 8603022243 dated September 3<sup>rd</sup>, 1997 by MOFA, the feedbacks from R.O.C.’s Representative Office in Philippines were --- <ol style="list-style-type: none"> <li>1. According to the relevant Philippine land laws, foreigners are not allowed to acquire land title deeds. Foreigners are defined as individuals, corporate aggregates, or corporations.</li> <li>2. In joint venture cases, if the foreigner’s share holding exceeds 50%, then it will be regarded as a “foreign company”. Also, if foreigners’ share holding exceeds 40%, this company is also not permitted for land acquisition.</li> <li>3. Regulation regarding building co-ownership clearly states, that 60% of the building’s ownership must belong to either Philippine individuals or Philippine companies. The remaining 40% building ownership can be acquired by aliens or foreign corporations; foreign corporations mean that foreigners are holding over 50% of the company shares.</li> </ol> </li> <li>– Taking into consideration, the differences of culture and laws of both countries, also taking into concern the “spiritual essence” behind Article 18 of the “Land Law”, under a reciprocal situation, the R.O.C. government allows Philippine nationals or corporate aggregates to acquire 40% or less of all exclusive areas of strata titled constructional improvements ( i.e.apartments or buildings ) , as well as the entitled share of ownership of or superficies over the site pursuant to the “Apartment Building Management Act”.</li> </ul> <p><i>* According to communique No. 8690004 dated December 13<sup>th</sup>, 1997 by MOI:</i></p> <p>While during another joint conference session with relevant authorities, that took place on November 25<sup>th</sup>, 1997, topic of the conference being whether Philippine nationals or corporations are permitted to create mortgage on land, or to foreclose on the mortgage to acquire land rights, the following conclusions were reached:</p> <ul style="list-style-type: none"> <li>– According to feedbacks from MOFA, pursuant to Article 133 of the Philippine National Law amended on June 17<sup>th</sup>, 1978, it clearly states that private and personal real estate properties owned by Philippine nationals, may be pledged ownership to alien individuals, corporations or organizations.</li> <li>– During the term of the agreed period of debt reimbursement, the foreigners are not permitted to “occupy” the said properties.</li> </ul>
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		<p>Only under the condition of the inability to render due debts, or declaration of bankruptcy, or through procedures of confiscation by local law enforcement agencies, may the foreigners truly “own” and “occupy” the said properties. The maximal duration is five years.</p> <ul style="list-style-type: none"> <li>— When the said properties will go through foreclosure and auction procedures, if the foreigners do not fit the pre-requisite terms set forth by local laws, the foreigners will not be allowed to join and take any actions in those proceedings.</li> <li>— Thus, in keeping on path with the reciprocity principle of Article 18 of the “Land Law”, the R.O.C. government allows Philippine nationals to set mortgage on land, and the collaterals are not limited to strata titled constructional improvements. However, if they wish to exercise their mortgage to acquire land rights, the R.O.C. government permits them to the favorable condition of being able to acquire 40% or less of all exclusive areas of strata titled constructional improvements, as well as the entitled share of ownership of or superficies over the site. However, if the property concerned is not strata titled constructional improvements, then this condition ceases to apply.</li> </ul> <p><i>* According to communique No. 8702904 dated February 20<sup>th</sup>, 1998 by MOI:</i></p> <ul style="list-style-type: none"> <li>— The concerns regarding whether Philippine nationals can acquire land rights in Taiwan through inheritance. According to the feedbacks from MOFA: 「After thorough inquiries with the Assistant Executive Secretary of the Philippines Presidential Palace, it is confirmed that as long as the said property, whether land or building, concerned is privately owned, then the Philippine constitution permits the acquisition of land or housing through inheritance cause. As long as the alien can fully and legally proof his/her lawful inheritance rights in local courts, then his/her alien status will not bear effect onto the inheritance process, as well as the complete protection of that lawful right.」</li> <li>— Accordingly, under the reciprocity principle of Article 18 of the “Land Law”, Philippine nationals equally enjoy the lawful protection of their inheritance right in Taiwan, for land/housing acquisition. In this unique case, there will be no maximal area limit rule of 40% or less applicable here.</li> </ul>
4	Thailand	<p><i>* According to communique No. 8702266 dated January 22<sup>nd</sup>, 1998 by Ministry of the Interior (MOI) :</i></p> <p>In the case whereas Thai banks have successfully obtained commercial licenses pursuant to R.O.C.’s banking laws, if such Thai banks include operations such as guaranteed investment funds, following the spirit of the R.O.C.’s “Land Law” Article 18’s reciprocity principle, they are allowed to create mortgage on land in Taiwan.</p> <p><i>* According to communique No. 0920011585 dated August 8<sup>th</sup>, 2003 by MOI:</i></p>

		<ul style="list-style-type: none"> <li>—The Thai government announced that it has already amended its own Land Law section 96 on January 19<sup>th</sup>, 2002; this action now allows foreigners to purchase local land, under the status of either permanent residency or joint ventures.</li> <li>—Therefore, according to Article 18 of the R.O.C.'s "Land Law", Taiwan government allows Thai nationals or corporate aggregates to acquire land rights for the purposes of residency or investment.</li> </ul> <p><u>* According to communique No. 0920016705 dated December 15<sup>th</sup>, 2003 by MOI:</u></p> <p>Reported by the R.O.C.'s Representative Office in Thailand, that after personal visit and discussion with local officials at the Thai Land Bureau:</p> <ul style="list-style-type: none"> <li>—According to Article 93 of the Thai land law, their Minister of its MOI is able to permit foreigners to obtain land rights through inheritance; nevertheless, the area must not exceed the description stipulated in Article 87 of their land law. Foreigners are defined as all persons who are non-Thai nationals, which automatically make R.O.C. nationals eligible.</li> <li>—According to per communique No. 0920011585, which allows Thai nationals or corporate aggregates to obtain land rights in Taiwan for the purposes of residency or investment. However, such pieces of real estate must exclude types of which are mentioned in Article 17 of the R.O.C. "Land Law"; furthermore, if the usage of the land is in accordance to the principles as described in Article 19 Item 1 of the same law, there is no maximal area limit.</li> <li>—Hence, since the Taiwan government already allows Thai nationals or corporate aggregates to obtain land rights, either on the basis of residency or investment purpose, and since the Thai government has no prohibition excluding foreigners from obtaining land rights through inheritance, the R.O.C. government allows Thai nationals to obtain land rights in Taiwan via inheritance. In Taiwan, concerning the maximal area principle, since none was enforced at the moment of obtainment, then none shall be enforced at the moment of the inheritance.</li> </ul>
5	Fiji	<p><u>*According to communique No. 8204467 dated April 8<sup>th</sup>, 1993 by Ministry of the Interior:</u></p> <ul style="list-style-type: none"> <li>— The relevant regulations in Fiji, regarding real estate transactions, are non-discriminatory. R.O.C. nationals, like all other nations' citizens, even if not possessing permanent residence status in Fiji, real estate transactions, area under 1 acre, can be conducted at free will. Real estate transactions of area larger than 1 acre must be applied and approved by local authorities beforehand.</li> <li>—However, land which is declared as "Nation Owned" can only be</li> </ul>

		<p>leased from the government, for a maximum duration of 99 years.</p> <p>— Furthermore, land which is declared as “Aboriginal Reservation”, is prohibited by the nation’s constitution, from either being commercially transacted or personally owned.</p>
6	<b>Bermuda</b>	<p><u>*According to communique No. 8508689 dated September 11<sup>th</sup>, 1996 by Ministry of the Interior:</u></p> <p>— Foreign corporations can not purchase or own land in Bermuda. Land can only be leased, for a maximum duration of 21 years.</p> <p>— Besides, R.O.C. nationals can create mortgage on land in Bermuda, according to regulations set forth in Item 144 of its “Corporate Laws”.</p>
7	<b>Denmark</b>	<p><u>*According to communique No. 8706334 dated June 15<sup>th</sup>, 1998 by Ministry of the Interior:</u></p> <p>— Regarding the Danish government’s attitude toward R.O.C. nationals, as far as permission for land or property acquisition are concerned, according to Danish “OOO” Co. (Taiwan), Ltd., providing a certificate issued by the Danish Ministry Of Justice, dated January 12<sup>th</sup>, 1998, (ref.: 1998-8620078) , it was clearly shown that: all Taiwanese companies’ subsidiaries in Denmark, according to present Danish law, may acquire land or property as collateral foundation. Regardless of the nationality of the collateral holders, all such collateral holders shall be protected by Danish law; however, they must also abide by the Danish legal system and procedures, in regards to foreclosure or auction.</p> <p>— Based on the above data, under the reciprocity principle of Article 18 of the R.O.C.’s “Land Law”, Danish nationals are also granted the same courteous treatment in Taiwan, but they do not need to provide any reciprocal documents. Only when Danish nationals, who are the collateral holders, wish to exercise their mortgage and become true owners, must then still follow Item 1 of the “Operational Directions for Foreigners to Acquire Land Rights in Taiwan”, in providing reciprocal documents issued by their authorities back home.</p>
8	<b>The State of South Carolina, U.S.A.</b>	<p><u>*According to communique No. 0930015751 dated November 18<sup>th</sup>, 2004 by Ministry of the Interior:</u></p> <p>The R.O.C. government allows foreigners from this state to land acquisition of a maximal area of 500,000 acres (about 202,345 hectares).</p>
9	<b>The State of Minnesota, Iowa, Maryland, West Virginia, U.S.A.</b>	<p><u>*According to communique No. 0930012056 dated August 19<sup>th</sup>, 2004 by Ministry of the Interior:</u></p> <p>The R.O.C. government allows foreigners from those states to acquire land except agricultural land.</p>

10	<b>The State of North Dakota, South Dakota, U.S.A.</b>	<p><i>*According to communiaue No. 0930015751 dated November 18<sup>th</sup>, 2004 by Ministry of the Interior:</i></p> <p>The R.O.C. government allows foreigners from those states to acquire land except agricultural land.</p>
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**Ps:**

*\*According to communique No. 0970059761 dated April 14<sup>th</sup>, 2008 by Ministry of the Interior:*

The R.O.C. government allows Ukrainian to acquire land except agricultural land.

*\*According to communique No. 0970057557 dated April 15<sup>th</sup>, 2008 by Ministry of the Interior:*

The R.O.C. government allows foreigners from the State of Mississippi, U.S.A to acquire land, but in public and industrial land have some restriction:

- In public land, resident aliens may own land. Nonresident aliens may not unless it is a lien to secure a debt, but no longer than 20years. Corporation or association of persons comprised in whole or part of nonresident aliens may not directly or indirectly own public lands.
- In industrial land, nonresident aliens may not acquire and hold more than 230 acres of land.

## VIII. QUESTIONS AND ANSWERS

(1) What are the reciprocal documents?

<Answer>

The reciprocal documents are the documents issued by the competent authorities of the applicant's country (or administrative territory) stating that the nationals from Taiwan, ROC, are entitled to the same rights and interests in the applicant's country (or administrative territory). Such reciprocal documents must be notarized by ROC embassies and consulates, representative offices or other agencies authorized by the Ministry of Foreign Affairs (MOFA) of Taiwan, ROC.

(2) For which land uses may foreigners acquiring land directly file applications to the local land registration office concerned without prior consent of competent central government authorities?

<Answer>

Foreigners may acquire land for the purposes of personal use, investment or public welfare without prior consent of the competent central government authorities when the land is to be used for:

- (A) Residences.
- (B) Business offices, offices, shops, or factories.



- (C) Churches.
- (D) Hospitals.
- (E) Schools for the children of foreigners.
- (F) Offices for embassies, consulates and non-profit public welfare organizations.
- (G) Cemeteries.

(3) Can foreign religious bodies or corporate aggregates acquire land in Taiwan, ROC?

<Answer>

Article 11 of Enforcement Regulations for General Principles of Civil Code stipulates: “A foreign corporate body shall *not be licensed unless otherwise stipulated by law*”. Paragraph 1 of Article 12 of the same regulations stipulates: “a licensed foreign corporate body is entitled to the same powers and rights vested by law to an ROC corporate body of same status”. The foreign corporate body intending to acquire or officially register land rights shall thus first obtain the necessary legal license/permit as specified in the law.

## IX. APPENDICES

A. Provisions of the Land Law of Taiwan, ROC, relating to land acquisition by foreigners, as amended and promulgated on October 31, 2001.

Article 17: The types of land listed below shall not be transferred to, leased to, or used as collateral by foreigners:

- i. Forests reserves
- ii. Aquaculture
- iii. Hunting reserves
- iv. Desalination fields.
- v. Mineral deposits areas.
- vi. Water resources areas.
- vii. Military areas and land adjacent to the national frontiers.

*Transfer of land specified above, excluding the land acquired with inheritance, shall sell to ROC nationals within three (3) years upon completion of registration of the inheritance. The Land Registration Office of the city or county government concerned may report to National Property Bureau for auction according to procedures defined in Article 73-1 in case of failure to sell out within the fixed period.*

*The previous provision applies to the land specified in paragraph 1 which is acquired with inheritance prior to the enforcement of amendments of the Law and has not been registered.*

Article 18: Only foreigners whose home countries, according to treaties or their domestic laws, entitle ROC nationals to the same rights may acquire land in Taiwan, ROC.

Article 19: Foreigners may acquire land for any one of the following purposes, but the area and location of such land shall be subject to restrictions stipulated in the laws and regulations of the competent municipal or county government:

- i. Residences.
- ii. Business offices, offices, shops, and factories.
- iii. Churches.
- iv. Hospitals.
- v. Schools for children of foreigners.
- vi. Offices for embassies, consulates and charity organizations.
- vii. Cemeteries.
- viii. Investment projects helpful to major national infrastructure projects, overall economic development, or agricultural and animal husbandry industries as approved by competent central government authorities.

The application procedures, required documents, method of review, or other requirements necessary for land acquisition as specified in *Item 8 of the preceding paragraph* shall be determined by the *Executive Yuan* (Cabinet).

Article 20: To acquire land for any of the purposes specified in the preceding Article, the foreigners shall submit the application together with relevant required documents to the competent city or county government authority for approval. This provision shall also apply to alteration of purpose or transfer of land other than by inheritance. Acquisition of land according to Item 8, Paragraph 1, of the preceding Article necessitates prior consent of the competent central government authority.

The municipal or county government shall notify the applicant of its approval or rejection within fourteen (14) days after receipt of the application. The application duly approved shall be reported to the land administration authority of the central government.

The foreigners shall exploit the land acquired according to Item 8, Paragraph 1, of the preceding Article within a specific time and utilize the land according to the purpose approved. If the applicant fails to exploit the land within the specific time, the applicant may request an extension of the time limit from the competent central government authority stating the causes for deferment. If the applicant fails to exploit the land within the specified time or according to the purpose approved, the municipal or county government shall notify the landowner that he must sell that land within three years of the delivery of the notice. In case the land in question is not sold within three years, it shall be auctioned. The sum receivable shall be refunded to the landowner. If there is any building on the land, it may also be auctioned.

The procedures of auction, estimation of land value, settlement of disputes and other requirements of the auction shall be established by the land administration authority of the central government.

B. Regulations Governing Land Acquisition by Foreigners for Investments in Major National Infrastructure Projects, Overall Economic Development, or Agricultural and Animal Husbandry Industries

Promulgated on 27 February, 2002

Article 1: These Regulations are established in accordance with the provisions specified in Paragraph 2, Article 19 of the Land Law (hereinafter referred to as “the Law”).

Article 2: Investments in major infrastructure projects, overall economic development, or agricultural and animal husbandry industries mentioned in Item 8, Paragraph 1, Article 19 of the Law refer to:

- A. Investment in major infrastructure projects means investment in projects approved by the central government authorities concerned or reported to Executive Yuan for approval.
- B. Investment in overall economic development means investments as listed below:
  - i. Development of tourist hotels, entertainment and tourist facilities, sport centers or stadiums.
  - ii. Residences and buildings.
  - iii. Industrial plants or factories.
  - iv. Development of industrial zones, business and industry complexes, high-technology scientific parks and other special zones.

- v. Tidal land.
  - vi. Public infrastructure construction.
  - vii. Development of new cities/towns and new communities, or urban renovation.
  - viii. Other permissible investments announced by the central government authorities concerned.
- C. Investment in agricultural and animal husbandry industries means investments that comply with the categories and criteria of technical intensive and capital-intensive agriculture specified and announced by the Council of Agriculture (COA), Executive Yuan.

Article 3: Foreigners acquiring land in compliance with Item 8, Paragraph 1, Article 19 of the Law shall file a land acquisition application with the following required documents required to the competent central government authorities:

- A. Identity documents of the applicants; in case of foreign corporate body, the corporate license documents shall be required.
- B. Investment proposals.
- C. Transcripts of land registration and cadastral maps; in case of land for urban planning, the certificate of land zoning for urban planning shall be submitted; in case of farmland, the certificate of farmland for agricultural purpose or certification of compliance with restrictions of land use.
- D. Reciprocal treaty/agreement documents that are notarized by the ROC embassies, consulates, representative offices or other agencies authorized by the Ministry of Foreign Affairs (MOFA), Taiwan, ROC. This requirement may be waived for applicants from the countries listed in the List of Reciprocal Nations for Foreigners Acquiring Land in Taiwan, ROC.
- E. Other relevant documents.

Presentation of the required documents listed in the previous paragraph may be waived if the documents are submitted together with investment proposals or have already been filed.

Article 4: The license documents required in Item 1, Paragraph 1, of the preceding Article 3 means the licenses that are issued to the foreign corporate body in accordance with the laws of the Republic of China.

Article 5: The investment proposal referred to in Item 2, Paragraph 1, of Article 3, shall explicitly state the name of the project, land location and requirements as specified by the competent central government authorities.

Article 6: Reciprocal documents mentioned in Item 4, Paragraph 1, of Article 3 mean the documents issued by the authorities of the applicant's home country stating that the ROC nationals are entitled to enjoy the same rights and interests in these countries. If regulations governing foreigners' acquisition of land rights are formulated by an individual territory administration in the applicant's country, these documents should be documents stating that the ROC nationals are entitled to enjoy the same rights and interests in the said territory administration.

Article 7: When an investment project by an alien in accordance with Article 3 involves two or more competent central government authorities, the applicant shall submit the application to the one competent central government authorities most closely related to the main project. In case the competent central government authorities fail to determine the nature of the project, the Executive Yuan may designate one competent authority for the project.

Article 8: The competent central government authority may consult with relevant agencies when reviewing the applications, and invite the applicant to be present for consultation.

Article 9: The competent central government authority shall notify the applicant of the approval by written confirmation and send a copy of the confirmation to the municipal or county government where the land is located. If the application is rejected, the central government authority shall state the reasons and notify the applicant in writing.

*The content of written approvals shall include:*

1. The application duly approved shall be processed in accordance with Paragraph 1, Article 20 of the Law.
2. *The exploitation of land involving the assessment of environmental impact, water conservation, land zoning and alteration of land use and land exploitation shall be made in accordance with laws and regulations relating to individual projects*

Article 10: The format of the application specified in the Regulations shall be determined by the Land Administration Authority of the Central Government.

Article 11: The Regulations shall come into force on the date of their

promulgation.

C.

## APPLICATION FORM FOR LAND ACQUISITION BY FOREIGNERS

Date of Application: (day/month/year)

I. Applying with: \_\_\_\_\_

II. Investment in: \_\_\_\_\_

### III. Basic Information of the Applicant:

A. Name: (in Chinese) \_\_\_\_\_

(in English) \_\_\_\_\_

(Native language of the applicant) \_\_\_\_\_

B. Nationality: (in Chinese) \_\_\_\_\_ (in English) \_\_\_\_\_

C. Residence or business address of the foreign corporate body registered  
(including postal code):

(in Chinese) \_\_\_\_\_

(in English) \_\_\_\_\_

D. Business address of subsidiary organizations or offices within the Republic of  
China (including postal code):

\_\_\_\_\_

E. Passport number or license number granted by the competent authority:

\_\_\_\_\_

F. Power of attorney for litigation and agent of the foreign corporate body within  
the Republic of China:

Name (in Chinese) \_\_\_\_\_

Name (in English) \_\_\_\_\_

Nationality: (in Chinese) \_\_\_\_\_ (in English) \_\_\_\_\_

Passport number: \_\_\_\_\_

Contact address: \_\_\_\_\_

G. Proxy for application: \_\_\_\_\_ Tel: \_\_\_\_\_

Fax: \_\_\_\_\_ Email: \_\_\_\_\_

H. Correspondence Address (including postal code):

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IV. Basic Information on the Land Ownership Applied for:

A. Land description, area, category of use (or zoning) and scope of ownership

B. Building description, address, area and scope of ownership

V. Documents Required: (tick the box ☐ as appropriate)

- ☐ A. Identity documents of the applicant;
- ☐ B. Investment proposal (indicating the name of the project, land location and requirements specified by the competent central government authorities);
- ☐ C. Transcripts of land registration and cadastral maps;
- ☐ D. Certificate of Land Zoning (the non-urban land may be exempted from submission of the certificate);
- ☐ E. Certificate of farmland used for agricultural purpose or in compliance with restrictions of land use. (In case of farmland, the certificate shall be required);
- ☐ F. Reciprocal documents notarized by ROC embassies, consulates, representative offices or other agencies authorized by the Ministry of Foreign Affairs (MOFA), Taiwan, ROC. (The applicants from the countries listed on the List of Reciprocal Nations for Foreigners Acquiring Land in Taiwan, ROC, may be exempted from submission of the document).
- ☐ G. Other relevant documents (please specify) \_\_\_\_\_

VI. Summary of Business Plan



VII. Statements: the land shall be exploited within the specified time and used according to the purpose approved upon acquisition of the land.

VIII. Other Statements:

Applicant: \_\_\_\_\_ (Signature & Seal)

Notes:

1. Please use A4 paper for the application form and adjust each column or attach a separate sheet as appropriate.
2. Please submit the application in quintuplicate with signature and seal of the applicant to the competent central government authority. In case the investment project involves two or more competent central government authorities, the applicant shall file the application to the competent central government authority most closely related to the main project.

Appendix IV: The above information is available at website  
<http://www.land.moi.gov.tw> of Land Administration Department, Ministry of Interior,  
or you may consult with the website for national laws, Ministry of Justice at  
<http://law.moj.gov.tw> for relevant information.