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Compromise Seen Near On Compulsory Licensing As Patent Talks Approach

The 100 members of the World Intellectual Property Organization (WIPO) have come closer to a compromise on compulsory licensing that should avert potentially disastrous changes to the Paris Convention on patents (*BI* '82 p. 81). LDC delegates to last month's third and final session of the Diplomatic Conference on Revision of the Paris Convention in Geneva have agreed to reopen talks on Article 5(a) which, as currently proposed, would allow poorer countries to award "exclusive compulsory licenses" to a local recipient of their choice on patents deemed unworked.

By far the most significant development during the month-long parley was the delegates' decision to defer discussion on the compulsory licensing question until November 23, when a five-day marathon session, devoted entirely to Article 5(a), is scheduled to begin. Although the US entered the October meeting seeking to avoid any formal negotiations that might lead to a vote (understandable, since a procedural rules change makes Convention ratification contingent on a two-thirds majority, as opposed to the previous requirement for universal consensus), this did not preclude closed-door bargaining. It was these informal, off-the-record exchanges, mainly between the US and Uruguay (designated spokesman for the so-called Group of 77), that finally led to reconsideration of 5(a). The bloc had previously considered the 5(a) matter closed, since all WIPO delegations but the US had tacitly approved the provision for exclusive compulsory licensing at the Conference's second session in Nairobi last year.

The most important factor behind the turnaround was

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MNCs in China: Clues for Investment To Emerge in Coming Years

Critical developments over the next two years in the People's Republic of China (PRC) could well clarify for corporate planners just how much opportunity exists there for MNCs. While the government appears firmly committed to the new thrust of an opening to the West, it has been slow to follow up on the initiatives taken on direct foreign investment, transfer of technology and related issues. The slow digestion process is worrying some companies currently looking for some specific clues to emerge from the present National Party Congress, as well as from actions on several other important fronts, to see just how workable China's new economic model actually will be for firms considering investing there.

Present operating conditions in the country continue to be clouded by the term "readjustment," a buzzword for the economic reforms instituted since 1979 by the aging Deng Xiaoping. This readjustment has created some uncertainty. On one side are Deng's younger colleagues, who favor change, but have yet to amass the political capital to sustain their position. On the other are some powerful policy formulators, who still remain in the Chinese hierarchy and are not completely sold on the idea of dealing with the West. The situation is not one of the "jury still being out" on the opening to the West. Rather, it is one of exasperation in things not getting done, and the lack of a proper framework for Western business. The malaise is evident in several ways, e.g. in China's hesitancy to enact a patent law, which it has been drafting for the past two years, and in the insufficient interpretation of China's three-year-old, vaguely worded joint venture law. ►

INSIDE Tracking LDC Debt

". . . big debtors and large commercial banks may have less to worry about than smaller countries with debts that are even larger, relative to the size of their economies." **see p. 357**

A *BI* survey of foreign companies currently doing business in the PRC reflects these concerns. Some firms report they are still unclear on the Chinese attitude toward equity joint ventures, while several think that the Chinese are really not after direct tie-ups, but "technology and management crash courses." Some points cited by them to support this idea include the fade-out formulas in the JV contracts, which in most cases run for only 10-15 years; the insistence on incorporating overseas wage rates for Chinese workers, which companies feel rules out potential reductions in labor costs; and restrictions imposed by the Chinese on access to the domestic market for finished products.

A test case

One situation being watched by companies is how China will resolve the current equity joint venture dispute involving the Japanese firm, Hitachi. The 50-50 partnership has been operating in Fujian province for one year manufacturing TV sets. Hitachi has encountered a number of problems—including changes in the contract-stipulated volume of production, restrictions on the areas of China in which the TV sets can be sold, changes in the volume to be exported, and questions over Hitachi's royalties earned on domestic sales.

Some companies believe that at the core of Hitachi's woes is the basic problem of China trying to graft a capitalist concept, namely an equity joint venture, onto a centrally planned economy. The Chinese themselves often admit they do not yet have a totally clear idea of how this should be done.

As a result, companies still are uncertain how much management initiative they will be allowed, to what extent their joint venture's product will be allowed to compete with those of PRC manufacturers, and what changes they may expect in any contracts they sign. Over the next two years, the answers to the questions that hang over the Hitachi case—and the 39 other equity JVs agreed to since 1979—will give the clearest indication to foreign firms as to how viable the PRC will actually be as an investment site.

Many firms consider China's adoption of a patent law to be the litmus test of its sincerity to deal effectively with the West over technology transfer. The country admits it desperately needs technology to achieve its ambitious aim of quadrupling its output by the end of the century. Chinese officials have stated that their policy in the near future will be to upgrade existing plant and equipment rather than buying whole new plants. This implies that most future joint ventures will involve committing sizable amounts of technical know-how. However, many foreign firms are likely to refuse to comply unless their intellectual property is adequately protected. There are rumors that a patent law may be introduced at this month's National Party Congress (*BI* '82 p. 319), when the government unveils its sixth five-year plan.

Change in plans

The long-range economic blueprint is expected to show a change in the direction of China's priorities. It should confirm that the government, after three years of pushing development of light industry, will seek to redress the balance with heavy industry so that by 1986 the overall scope of the country's productive capacity will be on a more even keel, with only a slight, 51%-49% tilt in favor of light industry.

Nothing much new will come from the plan in the energy sector. Whereas companies once thought that oil could be developed in the present decade, oil industry analysts now believe that production of any significant volumes cannot be expected before the mid-1990s. Even when the oil does come on tap, expanding domestic demand makes it doubtful as to just how much can be used as a foreign exchange earner. This view seems to be confirmed by the first sketchy details of the upcoming five-year plan, which indicate that the PRC plans to concentrate its energy program on conservation and the reallocation of resources through restructuring industrial priorities.

Red flag

One alternative scenario that could develop in the next two years, and already has some corporate planners worried, is a possible rapprochement between the PRC and the USSR. Talks between the two countries are already in progress, but there is little evidence at present that anything substantial will result from them. However, planners should be aware that a dramatic change in this situation during a time of strained US-Sino relations could seriously affect operating conditions for Western firms in the PRC. For example, some firms in the field of high technology fear that such a rapprochement could interfere with or even halt their sales to the PRC under current US regulations aimed at a countering the flows of sensitive technology to the USSR.

Selective Distribution Rule In EEC's Auto Markets Could Affect Other Sectors

A recent interim decision by the European Court of Justice to force Ford's West German subsidiary, Ford Werke AG, to resume sales of right-hand drive vehicles in Germany (see box p. 355) reaches far beyond the way one drives. For one thing, the move has prompted the EEC's European Commission to forge ahead with its new draft regulation on selective distribution agreements in the automotive sector (*BI* '82 p. 246), which could affect other industries as well. This raises the fundamental question of the Commission's right to dictate what products a company *must* produce—a step that would take EEC anti-

● **Devaluation of the Canadian dollar.** A tacit decision to end heavy Bank of Canada support for the dollar represents the easiest short-term solution to Ottawa's most pressing political problem: abnormally high interest rates. As virtually the sole large-scale purchaser of Canadian currency in recent months, the Bank of Canada is seeing its reserves rapidly being drawn down. This raises the specter of fresh borrowing and upward pressure on interest rates at a time when the federal government's own financing needs will be soaring to meet a projected C$14 billion (C$1.24:US$1) budget deficit.

Last year, foreign direct investment in Canada shifted from a traditional positive influx of funds to a massive withdrawal, while the transfer of assets by Canadians to other markets continued apace. This resulted in a net direct investment drain of C$10.2 billion and a substantial deterioration in the position of the Canadian dollar relative to the US currency. Besides breaking the interest rate/unemployment deadlock, devaluation will provide a temporary boost in exports and profit margins for Canada's major resource industries. Some help is sorely needed; Statistics Canada reports that corporate profits have sunk to their lowest level in 35 years.

● **Wage controls.** Given Canada's dependence on competitively priced exports, a ceiling on wages is certain if collectively bargained settlements continue to outpace the rate of increase in US labor costs. Canada posted a first-quarter increase of 11.2%—below 1981's 12.2% average, but still far above the modest US rate of 2.2% made possible by "givebacks" in UAW negotiations with Detroit's Big Three automakers. Local unions—collectively, in unison—have adamantly refused to consider any concessions to management. This suggests that efforts to wring additional productivity from Canadian workers will depend on government-imposed solutions.

Controls are a natural antidote to the extra inflation spawned by devaluation. Imposition of any ceiling would be brief. They may also be confined to the public sector—in which case MNCs should gird for massive disruptions in basic services.

● **Less fiscal stimulus.** The federal government's budgetary predicament may help put a brake on the more extreme expressions of Canadian economic nationalism, such as the National Energy Program (*BI* '81 p.169). Effective divestment of assets not locally controlled is a feature of the NEP, but Ottawa has no money to exercise its option to assume a 25% share in existing private development ventures. The threat that continued expansion of state owned enterprise poses to MNCs is therefore moot for now.

● **Limits on the amount of bank lending to a single customer.** Canada's centralized, tightly controlled private banking system has been rocked by rumors of the impending collapse of Dome Petroleum Ltd—once expected to be the prime beneficiary of the NEP via its status as the country's largest locally owned energy MNC. Dome is heavily in debt to Canada's five major chartered banks, owing approximately C$3 billion, or 45% of the combined net worth of financial institutions holding 85% of the country's total private banking assets. The crisis has forced the federal government to consider imposing a ceiling on the amount any bank may extend to a single customer.

China Investment Pitch Still Leaves Many Firms Cold and Dubious

Usually before a show makes Broadway, it is tried out on the road and revised according to how it is received by audiences. Judging from corporate reaction to China's May preview in the US of its upcoming investment promotion spectacular to be held next month in Guangzhou (*BI* '82 p. 159), the Chinese had better alter their script or they will not find many investors sticking around. While most of the firms interviewed by *BI* already trade with China, few are willing to invest in the PRC until, as one executive said, "they get their act together and are able to offer enough assurances that there are going to be profits."

Much of the criticism leveled against the Chinese is that many of their business practices have not changed in the decade since China opened its doors to foreign firms. The following are some specific gripes MNCs have toward the latest Chinese investment plans:

● **Lack of official information on negotiating procedures.** One firm in the telecommunications field was contacted several months ago by two different provincial governments in China to supply some technical data on its product. This firm had previously traded with the PRC but had always gone through centralized bureaus in Beijing. It was uncertain as to how to deal with this new approach, and how the provincial tactic fits into overall bargaining procedures in China. Direct provincial negotiations with suppliers have been employed only on a limited basis by the Chinese over the last two years. To date, the company has been unable to get an answer, either from the PRC embassy in Washington or by writing to the ministry in Beijing it had previously dealt with.

● **Chinese reluctance to allow feasibility studies.** Companies complain that limited access to investigate the market properly and the dearth of information supplied to them by the Chinese make it difficult to plan a project. Some firms feel this is due to China's embarrassment over their lack of a sophisticated technological base and uncertainty in the government's long-range economic plans.

● **Corporate objections to the "Dutch auction" approach used by the Chinese when dealing with investment opportunities.** Many MNCs still consider China a high-risk investment, and a market not conducive to competitive bidding. Some companies, especially those with high-technology products, are worried about the Chinese propensity to disregard the protection of proprietary information once a bid has been submitted. As in the past, the PRC is again asking firms at June's investment show to submit technical data for examination without giving them any assurances that the information will not be shared with their competitors, or used by the Chinese in the event a deal is not struck.

- **Unrealistic financial terms being attached to investment deals.** Companies complain that the Chinese are insisting that foreigners raise all necessary equity and loans outside China. Another major problem for firms is lack of ironclad assurances on profit remittances. The renminbi is a controlled, not legally convertible currency and, as a rule, it is extremely difficult to get any kind of insurance to cover the risk of inconvertibility.

- **Departure from internationally accepted contractual terms.** While China, for the most part, is acceding to the Western practice of written definition and documentation, it still has trouble with certain clauses usually included in contracts. For example, such concepts as failure to meet the terms of the contract because of "force majeure" or "act of God" are not understood by the Chinese or are unacceptable to them.

Foreign Investment Rules: Latin America Now Idling; Shift In Gears Expected

Latin America, long-reputed to be a hotbed of regulatory schemes designed to restrict the freedom of action of international companies, is in a less strident mood these days. A look at restrictions on foreign investment in the region (see chart pp. 172–73) finds most key countries taking a weaker position in their tough stance vis-a-vis MNCs. Foreign investment policies in Latin America, however, are extremely fluid. Below is a country-by-country review of where seven major countries stand in the restrictive spectrum and which way the pendulum will swing over the next five years.

Argentina took an abrupt about-face six years ago when the military took power—from extreme nationalism and trend-setting legislation to near-total liberalization of foreign investment rules. However, this is likely to change soon. The government wants to protect local industry as part of a reindustrialization effort and to improve its balance of payments. Up front, this means import restrictions, but there is a negative fallout for foreign investment as well. The battle with the UK has left Argentina feeling vulnerable to outside forces that can restrict its trade via sanctions such as those of the EEC and US; it also raises the specter that some governments might attempt to influence the actions of subsidiaries owned by their nationals in Argentina. Argentina will want to reduce such dependency and to be tougher on foreign firms in vital industries.

Brazil, once fairly liberal toward foreign investment, is progressively tightening its rules. No across-the-board set of equity requirements is in the cards, but Brazil may finally institute a foreign investment commission or review agency that would license foreign firms operating in the country and extract favorable terms for Brazil during the approval process. Brazil will be realistic, however. For example, in the fields in which prior restrictions on foreign-owned subsidiaries have not helped Brazil develop needed technology and competitiveness (e.g. minicomputers and semiconductors, both notable failures for local industry), the government may allow MNCs to do the job right.

In **Chile**, MNCs have perhaps the most liberal environment anywhere. This has virtually no chance of changing over the next five years.

Colombia, already a strict enforcer of the harshest elements of foreign investment rules under the Andean Common Market (Ancom), is bound to get even tougher and less flexible than it has been. Foreign participation in its energy resource development projects has raised suspicions against domination by foreign investment that will see some action in the next administration, regardless of who wins this weekend's presidential elections. One of the two candidates, in a prior term, proved to be hard-nosed against foreign firms; the other, in theory, is slightly more liberal, but, in practice, is decidedly not.

Mexico has been at the forefront of restrictions against foreign investment, departing from its pressure on foreign-owned subsidiaries only in times of balance-of-payments difficulties. Last year, the government, feeling the strength of its oil revenue, cracked down on MNCs in a big way to assure the "quality" of its Mexicanization program by closing off loopholes. Now, Mexico is becoming more pragmatic and yielding because of its current balance-of-payments and foreign-debt bind. However, by 1984, Mexico is likely to come back at foreign investors with a vengeance and resort to tougher interpretation of its standing rules.

For **Peru** the moves begun in July 1980 to revert to Ancom rules actually meant *liberalizing* its much tougher domestic, highly socialistic laws. The 1985 presidential election may bring in a government that would reverse the current positive trend but no Peruvian administration is likely to return to the type of terms seen in the 1970 Industrial Law and its kin.

Venezuela, like its fellow oil-rich regional colleague, Mexico, is finding itself forced to become more pragmatic (i.e. accommodating) toward foreign investment because of a weakened balance of payments that has reduced its negotiating leverage. The government is allowing some 100% foreign-owned ventures to be set up against its own rules and regulations. Traditionally, Venezuela has been rated by MNCs as the worst pain in the neck of the Ancom group in application of regional regulations, because of the confused way Caracas goes about it—and the reputation is likely to stick.

Prospects for Profits China

THE NEXT FIVE YEARS

- ►Bureaucracy reorganized
- ►Tensions over Taiwan
- ►Heavy on light industry

Social dynamics

Dissent by intellectuals, discontent by workers tantalized by a taste of capitalistic benefits, and growing youth unemployment in urban areas will be sources of social tension in China for the next decade. Although there is currently little opposition to the authority of the aging Deng Xiaoping, the Chinese leadership is quickly realizing that its ultimate survival is directly linked to one word: *productivity*.

Still suffering the aftereffects of its years of internal revolution, China is cleaving to its recent pragmatism, with ideology giving way to incentives and profits. The current focus on light industry and agriculture is as much an attempt to provide jobs, raise living standards and realize a rapid return on investment as it is to boost export earnings.

So far, implementation of the four-part modernization program (agriculture, defense, industry, science and technology), China's stated goal for the rest of the century, has been woefully inefficient, and cynicism over the direction of the Communist Party and the effectiveness of the system is growing. To set an example, Deng recently took steps to streamline the bloated bureaucracy. This change, China's most sweeping peaceful governmental reform, includes:

- reducing the number of vice-premiers from 13 to two.
- lowering the average age of key officials to 58 from 64, and boosting the percentage of those with a college education.
- combining 12 ministerial-level organizations into six super-ministries, and cutting total staff by a third.
- nearly halving the State Council's 98 ministries, commissions and agencies.

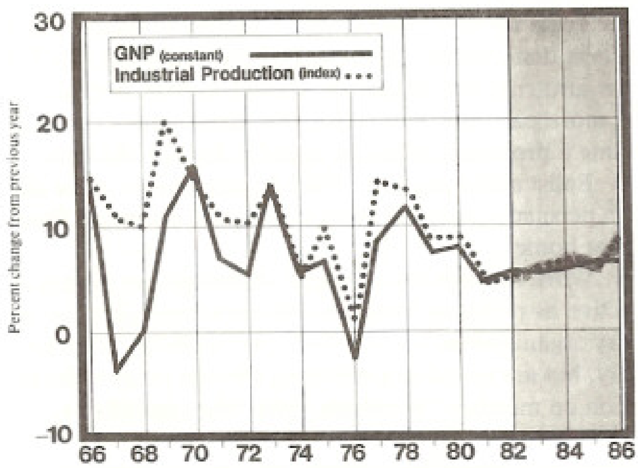
In addition, the National People's Congress has also approved China's first civil procedure law, which goes into effect October 1, containing provisions for civil actions by foreigners and foreign firms operating in China. In April, Chinese newspapers published the text of a new constitution, which reportedly includes "modified" versions of Western-style personal liberties.

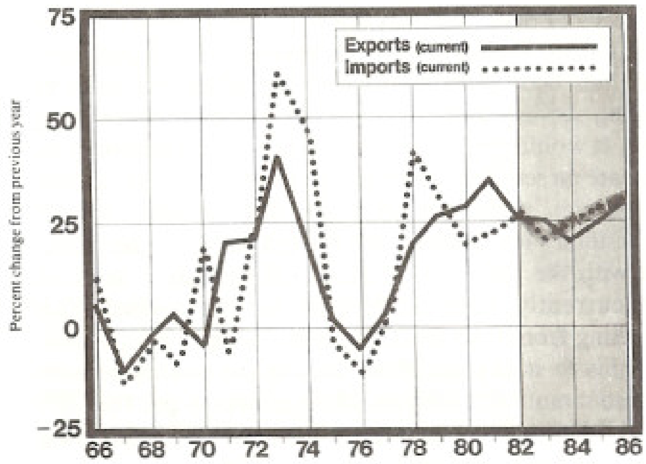
These moves are being touted by Deng and his reformers as signs of progress. But it is questioned whether they will be enough of an incentive to quicken the pace of China's long march toward economic modernism and provide enough of a safety valve to vent growing social pressures.

Politics

The coolness and skepticism now building between the US and China over US policy toward Taiwan will continue through 1984 and could have serious domestic ramifications. Deng is very much identified with opening China's doors to the US (China's third largest trading partner), and thus could become more vulnerable on other economic and political issues if his US policy flounders. Although Deng will be wary of risking US economic retaliatory measures that could impede China's modernization program, he can be expected to harden his attitude if he sees his own positions—and the future of his policies and those of his successors—threatened by US refusal to yield on the Taiwan issue. However, the downgrading of diplomatic relations with the US is unlikely.

In any event, the 77-year-old leader has let it be known that he plans to "retire" by 1985. Over the next two years he should begin to gradually cede power to his most likely successors—Premier Zhao Ziyang and Party Chairman Hu Yaobang—a move designed to both bind their support and diffuse critics who think mandatory retirement should start at





the top. But both men are relatively new to the Chinese hierarchy, which is still divided between Deng's reformers and the more conventional Communists. Radicals left over from the days of the Gang of Four still hold high positions, and there is danger that open warfare between the three factions could break out, especially if the economy falters and Deng eases the reigns of power too soon.

Economy

Economic growth—4.5% in 1981 (down from 5.5% in 1980 and 7% in 1979)—will remain in the 4% to 8% range during the next five years as readjustments in the economy continue. Coal production slid for the second consecutive year (though it should pick up in 1982), and oil output will continue to fall until at least 1985. The central government will continue to emphasize energy conservation, reducing demand by slowing down some industries. The chief emphasis in power production will shift to hydroelectricity, but a nuclear power generator contract will be negotiated in 1985.

A number of recent developments on the economic front are likely to be felt well into the 1980s:

- Ideological resistance to foreign participation in oil exploration and mining appears to have been overcome. Such participation will be a crucial element in the PRC's mining sector in the next five years. The February 1982 spate of oil announcements set the stage for large-scale foreign activity in China's offshore waters and for substantial participation in the development of China's coal and other minerals. The feasibility study and probable development in April 1983 of a huge open-pit coal mining area in Shanxi province by Occidental Petroleum's Island Creek Coal Co (US), and the modernization and expansion of the Liaoning province open-pit mine by Fluor Corp (US), are long-expected movements in mining and should pave the way for other MNCs over the next couple of years.
- Resistance to foreign borrowing is also fading in the face of the demands of rapid modernization and the PRC's new access to international lending organizations' low-interest funds. Loans from the IMF and other such bodies will be preferred to commercial bank money, but foreign investment as a source of capital will be sought more avidly than loans.

Investment

Some 130 projects—representing $1.62 billion worth of total investment—will be put before potential investors at an investment promotion meeting in Guangzhou in June. The aim is to attract $890 million from abroad—or 55% of the total planned investment—in inputs of technology, equipment and access to foreign marketing networks. Half of the 130 projects are for light industry. To date, some 40 joint ventures totaling $190 million ($87 million in foreign capital) have been approved, with 27 already in operation.

While Chinese procrastination has diminished the enthusiasm of a number of MNCs, there have been several signals in the past few months that indicate a deepening commitment to foreign business. Among these are the recently signed investment protection agreement with Sweden and the continuing issuance of business-related legislation. One of the new superministries fashioned by Deng is the Ministry of Foreign Trade and Economic Relations, which is an amalgamation of the Foreign Trade Ministry, the Ministry of Economic Relations with Foreign Countries, and the foreign investment and import-export commissions.

Key development and investment goals through the mid-1980s will be renovation and expansion of existing industrial facilities, ports and transport, telecommunications and power plants, plus oil and coal development.

Opportunities for firms lie in the provinces, where governments will struggle to keep larger portions of their revenue and the right to spend it as they see fit. The central government will encourage development of the coastal areas, especially such cities as Shanghai, Tianjin and Qingdao.

Foreign trade

If worldwide commercial interest rates remain high, the PRC will stick to its prime policy of financing imports through exports, thus restricting import growth in the short term. The export initiative of local enterprises will increase as they are given more latitude to deal. Their zeal, however, will be dampened by depressed overseas markets, and their efforts limited by domestic energy output and raw material shortfalls as the government restructures the foreign trade system.

For the moment, the Chinese are concentrating their export effort in light industrial products (largely textiles) and crude materials, with the aim of broadening the base to include a wider variety of minerals, machinery and, in the late 1980s, petroleum. Though attempts will be made to keep imports down, machinery and technical know-how for the priority industries, as well as some raw materials for light industries, will continue to be brought in from abroad.

Currency

Because of a strong dollar and modest Chinese export growth, the renminbi, a controlled currency, will be allowed to depreciate slightly in 1982 from its current level of Rmb1.82:$1. In the last two years the renminbi has lost 22% of its value against the dollar, but it should regain its strength in the mid-1980s as oil exports improve the country's current account.

Business International®

WEEKLY REPORT TO MANAGERS OF WORLDWIDE OPERATIONS

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Heinz's Zimbabwe Deal: Selling Your Strong Points In Government Negotiations

MNCs searching for ways to break into potentially strong new markets in developing countries, but put off by immediate operating obstacles, can pick up some valuable pointers from the noteworthy example of the H.J. Heinz Company's current foray into Zimbabwe. This major US food processor is well on its way toward acquiring a local Zimbabwean industrial group in a deal that, when finalized, would be the country's largest single foreign investment since its independence in 1980. It would mark the first joint venture between a major MNC and the current government, and is particularly significant because it would allow a foreign investor to acquire a controlling majority stake in a local firm—a major departure from official investment regulations.

The positive negotiating approach used by Heinz, while tailored to Zimbabwean conditions, illustrates several points that can be applied elsewhere. Like Zimbabwe, many developing countries with restrictive investment policies could become more flexible in today's tougher economic times, opening up more favorable investment terms within general official guidelines. The Heinz experience underscores the need to:

- identify market opportunities that dovetail with official priorities;
- cultivate local contacts and good personal relationships with authorities;
- stress the social and developmental benefits of the investment;
- and, perhaps most important, demonstrate to officials the proven track record of subsidiaries elsewhere in

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Company Lawyers Seek International Forum To Solve Counterfeit Capers

Last month, a lawyer from Apple Computer Inc took an eight-day trip through Asia and found not one, but a half-dozen manufacturers counterfeiting his firm's Apple II personal computer. Although the California-based company is now taking direct legal action in both Hong Kong and Taiwan, it is also seeking to share its experience with other companies, and possibly pick up a tip or two itself. Such corporate group therapy is now possible through the International Anticounterfeiting Coalition, which in the last year alone has doubled its membership, as the worldwide problem of counterfeited products grew into an estimated $16 billion dollar industry.

The coalition was formed in 1978, when a dozen or so firms, headed by Levi Strauss & Co, decided to lobby for changes to the US Customs Procedural Reform and Simplification Act. Their efforts proved successful and the amended law now requires seizure of counterfeit imports, and empowers the government to dispose of or destroy the illegal goods. Spurred on by this success, the coalition set out to look for other companies similarly stymied by counterfeit products. Today, the group has over 60 companies from 11 countries.

The coalition is nothing short of a legal swap shop. Counsels from these firms exchange firsthand information on problems their companies may be having in a specific market. Based on those experiences, they offer other coalition members advice on how to combat similar situations. According to the treasurer of the coalition, James Bikoff, of Mark Cross Inc, "Companies can call on the coalition for practical information, such as which

INSIDE ***Prospects for Profits: The UK***

"The economy's growth peak should arrive in 1983-84, accompanied by 1960s-style balance-of-payments worries..." ***see pp. 132–34***

4/23/82

Anticounterfeiting bill in US

The latest attempt by the International Anticounterfeiting Coalition to strengthen US laws against product pirates will be unveiled in May when Senator Charles Mathias (R, Md) plans to introduce a bill entitled the "Trademark Counterfeiting Act of 1982." Drafted by the Coalition's Legislative Task Force (Robert Stephan, General Mills Inc; James Bikoff, Mark Cross Inc; Peter Phillipes, Levi Strauss & Co; and Jed Radoff of Mudge Rose Guthrie & Alexander) the new legislation will, for the first time, provide the US government with a clear mandate to prosecute counterfeiters of consumer products. The main points of the new legislation include:

- **Fines for individuals of up to $250,000 and maximum five-year jail terms; guilty corporations could be fined up to $1 million.**
- **Successful claimants can recover threefold damages, defendant's profits resulting from counterfeiting, and the cost of investigating the violation and prosecuting the suit.**
- **The court will have the power to seize not only all counterfeit goods, but the machinery with which they were produced.**
- **Companies victimized by criminal counterfeiters can ask the court for a search warrant to preserve evidence.**

detectives in Hong Kong or which lawyers in Singapore have the most experience in handling counterfeit cases—and such information is especially valuable to people who are just starting out with the problem." The coalition's legislative task force also is trying to encourage members to participate in the drafting of stricter anticounterfeit legislation, both in the US and internationally, through the General Agreement on Tariffs and Trade.

The coalition meets formally twice a year although members keep in touch regularly, or as problems crop up. The next meeting will be in New Orleans, Louisiana, May 3-4. The agenda will focus on several major issues, among the most critical of which are counterfeits that do physical harm, and the Taiwan question.

As counterfeiters become more sophisticated in the products they copy, they are creating greater health and safety problems, resulting in ecological disasters or even loss of life. Often, such incidents can irreparably damage a legitimate company's credibility in a market—which is far more important than any immediate financial loss it might sustain as a result. Of specific concern are drugs, automotive brakes and agricultural chemicals.

One recent case, parts of which are still under litigation, involves Chevron and Du Pont. It was found that a Dutch firm, Kollum Chemie, had supplied large quantities of substandard fungicides to East Africa to protect the coffee crop. The fungicides, falsely labeled and packed as products from the two patentholders, were found to contain either the wrong active ingredient or to have been diluted to the point of being useless. The crops in both Kenya and Ethiopia were damaged severely, and compensation claims by both countries are still outstanding.

Growing counterfeit trade involving Taiwan also worries firms. In one recent case, the A.T. Cross Co found two manufacturers in Taiwan counterfeiting its 14k gold-filled pens. The offenders were tried and convicted in a Taipei court, but A.T. Cross says it has heard reports that these pirates may be back in action. Part of the problem lies in the sentences they received. Originally, both offenders were sentenced to a year in prison, but on appeal this was reduced to six months. In addition, they also took advantage of a local law that allows offenders the opportunity of buying off their jail terms for less than a US dollar per day. Because this problem affects over two dozen of the coalition members, a specific task force was set up to deal with Taiwan. According to a briefing memorandum by Michael Clayton, of Samsonite Corp, who serves as cochairman of the Taiwan task force,

> "It is the opinion of some [of the task force members] who have visited Taiwan in the last seven months that the government does not presently desire to halt the export of counterfeit goods because it is simply too important to the economy. When the government is truly convinced that export trade will be hurt rather than helped by counterfeiting, however, it will stop the export of counterfeit goods. It is generally felt that Taiwan has the means to stop the export of counterfeit goods through its present laws (perhaps with only minor changes), if the laws were enforced."

Recently, the Taiwanese government has made efforts to address the counterfeiting problem in response to EEC government pressure—including threats of quotas on Taiwan's exports to the EEC—and Clayton is urging the coalition to press Washington to threaten Taiwan with trade and economic sanctions in order to ensure that Taipei will act effectively to bring the problem under control.

The coalition has just completed a study specifying the weaknesses of the present regulations in Taiwan, and will be submitting a series of recommendations to Taiwanese officials to close up existing loopholes. Another disparity the coalition hopes to resolve is the problem of restricting "near copies." These are legal imitations of products which, while not exact counterfeits, are close enough to the real thing to deceive the consumer. In addition to these recommendations, the Taiwan task force is compiling two lists for the Taiwanese government of products of its member companies. The first will contain products that should not be given export clearance, because no one in the country has been given a license to produce them; the second will detail those trademarks that should be authorized for export.

(Companies interested in attending the meeting or joining the coalition should contact James Bikoff, Mark Cross Inc, 16 East 52nd Street, New York, New York 10022. Tel: (212) 421-3000.)

Pirates of Patents Use Sophisticated Tactics Against Original Producers

Companies are facing counterfeiting problems that go far beyond simple trademark pirating (*BI* '82 p. 142). Increasingly, firms are running into competition from look-alike duplicates of their own patented products. For example, earlier this year, a Taiwanese businessman approached Thomas Battenberg, president of Video Commander Inc (VCI) to try and persuade him to buy a Video-King home video switching system. Battenberg looked at the salesman's glossy brochure and was shocked; what was being offered was an exact duplicate of his own patented Video Commander system. VCI's experience is not an isolated problem. It is symptomatic of a plague that is sweeping through Asian NICs.

According to Anthony Gurka, managing director of Hong Kong-based Commercial Trademark Services—specializing in the protection of intellectual property rights—as little as two years ago, 90% of the counterfeit cases he handled involved trademark infringements. Today, 60% of that trade has switched over to duplication of patents and copyrights—and many counterfeiters get away with it legally, due in part to negligence by the very firms they are ripping off. Consequently, the counterfeit specialist warns that "firms should look at Hong Kong or Taiwan not as marketing prospects, but as dangerous manufacturing competitors." Thus, in order to protect their products, companies should seriously consider registering their patents in these two countries—even if they have no intention to sell or manufacture in either.

Not only is this more sophisticated form of piracy more difficult to detect, but it also often assists would-be trademark counterfeiters operating in other countries. Although the Hong Kong and Taiwanese are bowing to external pressure to curb trademark forgery, the copycat manufacturers in these two countries are still finding means to evade export restrictions. Either they openly export the twin product under their own separate, but equivalent, designation, or they ship the goods unmarked to another destination where the counterfeited trademarks can be affixed to the product if desired.

According to Gurka and his team of investigators, Singapore is rapidly becoming Asia's prime re-exporting site for such spurious goods. The new scam works as follows: A Taiwanese company produces an analogue of a product which is not patented in Taiwan and ships it out through a local trading company. The trading company sets up a liaison office in Singapore, and when the goods arrive there, has them stored in the customs-free zone for re-export. While in the zone, counterfeit trademark labels are affixed onto the product prior to reshipment. Because the goods have not officially entered Singapore, they are not subject to any legal strictures.

Product duplicators in both Hong Kong and Taiwan have also learned they can set legal traps for original manufacturers. Unlike trademark counterfeit, where illegal duplication is obvious in strict product copycatting cases the offended foreign firm has to prove that it came up with the idea before the local manufacturers did. Such evidence is often hard to produce.

Companies like Video Commander Inc and Apple Computer Inc (*BI* '82 p. 129) are among a growing number of small to medium-size electronics firms now finding that they will have to spend tens of thousands of dollars to protect their products. In many instances, a successful outcome is far from certain. For example, in Apple's case, according to corporate counsel Dan Werdin, only three parts in the Apple II home computer are patented by the company; the rest is made up of fairly standard and easily purchasable compenents. Furthermore, the duplicates manufactured in Hong Kong and Taiwan and distributed through Singapore do not bear the Apple trademark. Thus, prosecution of the case could prove difficult. Large firms are often in a better position, since they have the financial resources to see the case through the system, and thus drain the counterfeiter of any profits he has already made on the product. Hence, companies that demonstrate their intent to "go the distance" in defending their rights may be able to cow the counterfeiter into making an out-of-court settlement.

CANADA (Continued from page 145)

right combination of investment sweeteners to satisfy the most formidable condition—(6) compatibility with Canadian industrial and economic policies, details of which have never been publicly released. Firms responding to the Commerce Department said their efforts to meet Canada's fuzzy development objectives cost, on the average, several million dollars that would have not been spent in the absence of FIRA pressure.

BI's own survey highlights some startling concessions made by firms since December 1981 to get go-aheads on acquisitions and new investments:

In return for the right to establish a uranium exploration business in Calgary, Alberta, Mobil Energy Minerals Canada, a wholly owned subsidiary of Mobil Oil (US) will ensure that Canadian-owned entities are given the opportunity to assume a 50% stake in any or all exploration projects undertaken. Headquarters promised to earmark a minimum C$10 million (C$1.22:US$1) for exploration activities by end-1985 and introduce new uranium leaching technology to Canada. Competitively priced local suppliers will be sought first in sourcing. In addition, steps will be taken to ensure that 70% of the firm's directors, all but two of the officers, and the entire management staff are resident Canadians.

Idemitsu Kosan Co Ltd, one of Japan's largest publicly the form of duties and quotas against countries that sell goods in the US but deny "substantially equivalent market access" to the US-made products. Under strong administration pressure and considerable lobbying by US firms concerned about possible retaliatory action in their foreign markets, compromise language has been worked out that: significantly watered down the original provisions, deleting proposed Congressional authority to start investigations of unfair trade practices; softened the requirement that the President propose new steps each year to counter foreign trade barriers; and substituted "fair and equitable market opportunity" requirements for the more restrictive "substantially equivalent market access" clause.

Major support for the compromise reciprocity measure came when the National Foreign Trade Council endorsed the bill this week as a "relatively liberal approach to the need for strong US action in response to international trade barriers." Many companies interviewed by *BI* expressed support for the Danforth bill—either as the least damaging option available, or as a boon to firms concerned with the services, investment and high-technology provisions, as well as with the extension of international protection of intellectual property rights and proprietary data.

But passage of the bill, which is due to come up on the Senate floor in coming weeks, is by no means certain; chances of similar legislation making it through the House without tougher protectionist provisions are even more doubtful. Sen. Russell Long (D, La), one of the two committee members to have voted against the measure, contends that the bill demonstrates to US trade partners that "the gun ain't loaded." The other nay-sayer, Sen. Max Baucus (D, Mont) put it more explicitly: "To Americans, the message is action on trade. We are acting. To the Japanese, the message is pulling back from action."

There is a possibility that the bill may be amended during floor debate to include such clearly protectionist measures as local content legislation, now being marked up by the House Energy and Commerce Committee. The House proposal, the Fair Practices in Automotive Products Act (HR5133), introduced by Rep. Richard Ottinger (D, NY) already has well over 200 cosponsors, and its counterpart in the Senate, S2300, introduced by Sen. Wendell Ford (D, Ky) tallied 12 cosponsors. The measure would prescribe the share of parts that must be produced in the US and Canada for automobiles, light trucks and spares, ranging to as high as 90% for manufacturers with annual sales in the US of more than 500,000 vehicles.

US Trade Representative William Brock has made it clear that President Ronald Reagan would veto any reciprocity bill that included a domestic content amendment or other clearly protectionist language. If it became a choice between having no legislation or bad legislation, there would be "no legislation," Brock told a National Association of Manufacturers audience.

Asian Patent Piracy: A *BI* Checklist On Avoiding Worst of It

High-technology companies approaching the Asian market are often stymied by inadequate patent and trademark protection, especially in newly industrialized countries like Korea and Taiwan (*BI* '82 p. 150). There is little likelihood of any major legal actions that would improve the situation sufficiently. In fact, changes are being resisted for a number of reasons. These include fears that MNCs would use their technology to monopolize the market and inhibit technology transfer to local companies, as well as the misunderstanding that most advanced technology is available more cheaply through other means. For example, in Korea, officials have told *BI* that the country cannot "afford" to grant improved patent and trademark protection until it achieves a per capita GDP of $5,000 (currently it is $1,700). However, there are steps, based on a variety of corporate experiences compiled by *BI*, that companies can take to minimize the problem:

- **Make sure you understand the exact wording of local rules.** For example, current Korean patent legislation covers chemical processes but does not provide protection for chemical compounds (including pharmaceuticals), compositions (mixtures of active compounds and inert ingredients), or methods of use. In the case of pesticides, the Korean Ministry of Agriculture and Fisheries requires companies to disclose the exact formulations and all other product details. It then makes this information available to the public—thus facilitating copying and pirating of patented chemicals.
- **Thoroughly investigate the track record and political connections of a potential local licensee.** This requires contacting other MNCs that have dealt with the local company and finding a local source to evaluate the political leverage of that firm. While MNCs usually try to find local firms with plenty of political clout to help clear a path through the local maze of regulations and government approval requirements, such a firm might also use its political contacts to override agreements on an MNC's patent rights.
- **Invite your local agent as well as government officials to your base of operations.** One large US chemical company operating in Taiwan has used this tactic to follow up its discussions with government officials in Taipei. It invited patent officials to its US headquarters to demonstrate more clearly the working and needs of this high-technology industry. Company officials felt this method was a way of overcoming Taiwan's attitude (commonly held throughout Asia) that R&D protection is simply a Western fetish. The tour emphasized that the cost of developing a new drug could range between $50–60

million, and that it could take up to 10 years to produce—an expense in both time and money that could not be recouped unless adequately protected in overseas markets.

- **Make the licensing agreement worthwhile for the licensee.** The larger the package offered to the licensee (e.g. patents, trademarks and know-how), the greater the interest of the local firm will be in protecting the technology.
- **Charge a per-unit royalty rather than impose a charge on sales.** Some companies in Indonesia, for example, have found that charges of sales receipts encourage a local company to sell at a low price to a distribution company that captures the profit. Charging on cost, however, may be too complicated in a country like Indonesia.
- **Companies should weigh very carefully their assessment of the market potential against the risk of having their patent or trademark stolen before they introduce a product line.** There is no hard-and-fast rule for approaching this problem. Sometimes, if a company is the first in the marketplace with a product, it is in a better position to withstand competition, albeit illegal. Another approach is to introduce a less "valuable" product and use that line to establish a corporate image. This gives a company time to gain a better working knowledge of that country before launching a prized item there.

US-Saudi Tax Gap: Sorting Out the Problem For US Firms in the Kingdom

US MNCs involved in joint ventures with Saudi Arabian partners face a growing number of bilateral tax problems that, left unresolved, could force firms to cede market shares to well-positioned European and Japanese rivals. The issue has strong competitive implications for US companies because of the willingness of other governments to adjust, on trade facilitation grounds, their own tax rules to ensure that no home country firm bears a higher payment burden than the minimum required under Saudi law.

The absence of a comprehensive treaty between the two countries to define deductibles and reconcile Saudi practices with Internal Revenue Service (IRS) rules raises the prospect of soaring tax charges for firms that entered the market during the peak contract-letting years of the 1970s. In return for a minimum 25% local ownership stake, the companies received a five-to-10 year Saudi income tax exemption.

These exemptions are now expiring. The problem so far has been limited to companies with large-scale investments requiring significant amounts of capital, and operating via the so-called joint stock company. Such companies are not considered partnerships as defined by Section 7701 of the IRS Code and thus can qualify for only partial dilution of Saudi tax liability on their US returns.

For example, expiration of the tax holiday and subsequent payment of an average 45% levy on annual profits to the Department of Zakat and Income Taxes (DZIT) would expose the US investor in a 50/50 joint stock company to a 62% overall tax rate (45% to the Kingdom and 17% to the IRS), while an IRS-approved partnership would pay only the Saudi tax plus a 1% differential to meet the basic 46% levy US parent corporations normally pay at home. The higher payment obviously impairs the ability of the US entity to earn a reasonable return on its equity capital and amounts to a condition of double taxation. MNCs interviewed by *BI* affirm the impact will make their operations in Saudi Arabia less profitable.

The IRS is also moving to place curbs on another, more widely used, joint business arrangement: the limited liability partnership. Currently, the limited liability pact is the only feasible form of business association that qualifies as a partnership for IRS purposes and whose Saudi taxes are fully creditable against US liabilities. ("General" partnerships, as the Saudis understand them, are considered to be arrangements between individuals only.) Under a new rule first proposed in November 1980 and still awaiting a formal IRS hearing, limited liability ventures would lose their status as partnerships and be reclassified as corporations, thus exposing US partners to the same risk of double taxation currently being confronted by shareholders in joint stock companies.

The impetus for the proposed change, according to a Treasury Department official, is to close a legal gap that permits individuals outside Saudi Arabia to use the arrangement as a lucrative, cost-free tax shelter. Only after the amendment to Section 7701 was announced did the IRS begin to assess the impact on legitimate business arrangements in Saudi Arabia and elsewhere in the Middle East. An IRS spokesman concedes it would be considerable. Significantly, however, the rule has not been withdrawn and will remain on the docket pending hearings and further internal study of its effect on corporate operations abroad, particularly with regard to limited liability partnerships and equipment leasing trusts.

Financial specialists interviewed by *BI* say the failure of the IRS to rescind the rule can only contribute to more uncertainty for US investors as to how they should structure their operations to minimize tax exposure. Unlike French, Dutch and some other European investors, potential US partners cannot even rely on the known fruits of Saudi tax holidays because the IRS forces companies to calculate their total US liability as if the standard Saudi rates were in effect.

Other side of the coin

Compounding the problem for US firms is the dizzying array of Saudi rules, many of which appear to be unique, with no known antecedents in the tax codes of other countries. There is, for example, no provision whatsoever for antidumping system expanded. Specifically, it seeks changes granting a complainant whose application for compensation has been rejected the right to appeal to the semi-independent Anti-Dumping Tribunal. It also wants to water down the criteria for rejecting dumping claims (that there be no evidence of injury whatsoever), by introducing the concept of "reasonable indication" of injury. In addition, the subcommittee is endorsing the white paper's call for replacement of the present non-statutory time limits for dumping and countervailing duty investigations with a prescribed deadline of 90 days in most cases. Several witnesses criticized the change for its inevitable encouragement of more hasty and arbitrary preliminary determinations of injury.

A proposed change in the moribund administrative system for countervailing duties is also being applauded. Currently, a filer must proceed, at enormous expense, to the most senior level of government—the federal cabinet—to gain approval for the assessment of duty against foreign-subsidized goods entering Canada. The proposed Special Import Measures Act would remove this requirement in favor of a process similar to that in place for antidumping cases.

On a related issue, the subcommittee wishes to strengthen existing provisions for negotiated price "undertakings" (i.e. an agreement by the exporter to raise the price at which goods are sold to Canada by an amount that eliminates the margin of dumping or the subsidy). It proposes that such undertakings be negotiated *prior* to a preliminary determination of duty by Revenue Canada—in other words, well before the exporter receives any judgment as to whether his goods have in fact been "dumped." Critics of this approach say the effect will be to stampede foreign importers into a hasty admission of guilt, thus saving both the Canadian complainant and Ottawa the extra time and money that would be needed to establish culpability through due process.

Even more ominously, the subcommittee backs the white paper's advice that a larger number of goods should be placed on the government's Import Control List—but only for "monitoring" purposes. The reason cited is Canada's inability to compile "meaningful and timely statistics on volumes and values of imports." Placing more goods on the Import List will ostensibly accomplish this purpose, but many observers say the end result will be to frighten importers, spawn additional red tape, and lead to more pressure from aroused producers to expand the List's quota system.

Legislative outlook

The current timetable is to take the Special Import Measures Act for final approval by the full cabinet shortly after Christmas, and then introduce it for a first reading in Parliament next April. Given the nuances of the Canadian political process, sufficient "feedback" has already been obtained to guarantee that the white paper's original recommendations, as subsequently ratified by the subcommittee, will find their way intact into the final version of the bill.

The US has already submitted an aide-memoire commenting on the import bill with the Department of External Affairs, but any such incantations from Canada's trade partners are likely to fall on deaf ears. Finance Department bureaucrats, responsible for putting the finishing touches on the Special Import Measures Act, stress that the changes contemplated are legal under the GATT, and are no more restrictive than those already embedded in the domestic trade laws of Europe and Japan.

Taiwan's Attack On Counterfeiting Practices Is Largely Lip Service

Stung by the worldwide publicity surrounding the production of fake Apple computers (*BI* '82 p. 129) and their distribution throughout Asia, the Taiwanese government is moving to tighten laws on patent protection and trademark and copyright infringement. The action comes in the form of a 10-point plan (see box next page) by a special government group. The most optimistic officials in Taipei currently expect a draft patent law no earlier than the first quarter of 1983. But *BI* does not expect any substantive changes to occur for five to 10 years.

BI's analysis is supported by a number of interviews with executives of foreign firms operating in Taiwan. While they are encouraged by the direction of the proposals, they are still somewhat put off by the vagueness of the original wording, and realistically expect the government to approve only a few of the measures initially. As one executive told *BI*, "The government is seriously reviewing the situation, but these proposals are no more than the thoughts they have come up with so far." Members of the Trade and Economic Affairs Committee of the American Chamber of Commerce in Taiwan interviewed by *BI* predict that *at best*, the government will act only on proposals (1), (3), (5), (8) and (10).

A close examination of these proposals shows that they amount to little more than previously announced executive orders to clamp down on the flow of counterfeit products leaving the country, and do little to restrict such trade in the domestic market. Firms are also skeptical that local courts will go along with imposing harsher sentences on offenders. This reluctance by the courts leads businessmen to believe that there is little chance that proposals (6) and (7) will be enacted within the next five years.

But the real test of Taiwan's sincerity in attacking the counterfeiting problem will be the enactment of proposals (4) and (9). To date, Taiwan has refused to recognize the existence of an infringement unless the subject matter is Taiwanese-registered. It is this trap that has snared Apple, and dozens of other small high-technology firms unequipped to file for patent protection in every country (*BI* '82 p. 150). In addition, it is also the contention of foreign manufacturers that the only way to discourage pirates, many of whom are often established local businessmen, is to cut off any financial incentives such operations may offer. The reluctance of the Taiwanese government to instruct financial institutions to withhold funds from these entrepreneurs is an indication of how dependent the government still is on their support.

US ELECTIONS (Continued from page 361)

support of local content legislation has risen significantly, from 53% in the 97th Congress to 55% in the 98th Congress, with the pro vote among freshmen rising to a staggering 59%. Freshman Congressmen will be voting against Reagan on two thirds of the key issues. Also:

- It will be hard for Reagan to get his economic objectives passed in the House, and more difficult now to get automatic passage in the Senate. Potential legislative stalemates cannot be ruled out.
- Reagan may have to rely on a confrontational strategy, using his veto power as the main weapon. But on issues with broad popular support, the veto can be overridden with the help of skittish liberal Republicans.
- He may have to opt for a policy of compromise and moderation (likely in view of his record as governor of California and recent attempts to modify ideological Reaganomics), but this approach is a two-edged political sword that gives most of the advantages to the Democrats.
- The Democrats will try to bring the Federal Reserve Board and monetary policy under tighter political control. Liberal Democrats may find willing allies in Republican supply-siders, who view Paul Volcker's policy as sabotage of pure Reaganomics.

Committee makeup

While the election itself did not significantly alter the structure of the House and Senate Committee system, the two defeats in the Senate—and more importantly the decision by a number of members not to run—will have an impact on some committees that affect legislation of vital interest to MNCs. The Democratic gains in the House also mean that the formula used to determine party ratios on all House committees will be adjusted. Thus, Republicans will likely have fewer members on most committees.

Defeat of two Senate incumbents, Sen. Harrison Schmitt (R, NM) and Sen. Howard Cannon (D, Nev), will have a significant impact on two committees crucial to MNC interests: the Senate Commerce, Science and Technology Committee and the Senate Banking, Housing and Urban Affairs Committee. Although Schmitt had little involvement in international trade issues, he was an ardent supporter of a strategic minerals policy and a generally probusiness voice on both committees. Cannon, who was ranking minority member of the Commerce body will be missed by advocates of easing government regulation of airlines, trucking firms and railroads. His most likely replacement will be Sen. Daniel Inouye (D, Hawaii), who is known as a consumer protection advocate and has considerable interest in insurance and product liability—issues that may affect MNCs in such areas as international toxic waste disposal and export of hazardous substances.

Election casualties on the House side included two strong pro-MNC advocates: Rep. Thomas Evans (R, Del), chairman of the House Banking Committee's subcommittee on International Development Institutions and Finance, and Rep. John Rousselot (R, Cal), senior member of the House Ways and Means Committee and vice-chairman of the Joint Economic Committee. That body also lost Rep. Henry Reuss (D, Wisc) a noted expert on international economics. He was also a member of the Banking Committee, which lost its senior Republican member, J. William Stanton of Ohio. The Ways and Means Committee also lost three protectionists: Reps. Ken Holland (D, SC), William Brodhead (D, Mich) and Don Bailey (D, Pa).

Taiwan's Anticounterfeiting Plans

(1) Prohibit export of all products with counterfeit trademarks, false certification of origin or found to be patent infringements.

(2) Step up efforts to eliminate manufacturers and sellers of counterfeit foreign and domestic products.

(3) Impose stiffer penalties on offenders by extending the maximum prison term to five years, minimizing the possibility of converting the sentence to a fine, and confiscating production equipment used for illegal purposes.

(4) Work out measures to protect prominent trademarks not registered in Taiwan, and participate in international patent and trademark organizations.

(5) Speed up sentencing of counterfeiters and make the sentences exceed six months so that they cannot be replaced with a fine.

(6) Establish a special trademark and patent court to accelerate and ensure just sentencing.

(7) Change the scope of the existing patent and trademark screening standards, and provide the revisions to the courts.

(8) Assist local manufacturers in entering into technological cooperation agreements with foreign manufacturers and in establishing their own brand names.

(9) Send the list of manufacturers that have been counterfeiting to all financial organizations for use when considering loans.

(10) Instruct police to cooperate in the investigation of cases involving counterfeiting.