

# COMMENTS

## HOT DOG STANDS OR HIGH TECH? THE FATE OF TAIWANESE INVESTORS AND THE IMMIGRATION ACT OF 1990

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### 1. INTRODUCTION

Once a poor country dotted with rice paddies and sugar cane groves, the island of Taiwan has changed dramatically during the past thirty years. Its peoples' fascination for the United States, however, has remained constant. Long ago, the Taiwanese named their major thoroughfare in honor of President Franklin Roosevelt. Today, Roosevelt Road attests to the recent economic prosperity of a country which boasts eighty-two billion dollars in foreign exchange reserves, more than any other nation in the world.<sup>1</sup> On one block, a three-story Kentucky Fried Chicken vies with McDonald's in providing consumers with a taste of the United States. Further down the street is an English Language Center, where students watch the latest U.S. movies and practice conversational skills they someday hope to use abroad.

The U.S. Congress sought to capitalize on this combination of economic prosperity and interest in the United States when it enacted the Immigration Act of 1990 (the "Act").<sup>2</sup> Tailoring

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<sup>1</sup> See *Taiwan Forex Reserves the World's Largest in 1991*, The Reuter Bus. Rep., Jan. 14, 1992, available in LEXIS, Nexis Library, Currnt File; see also Tony Emerson, *Going Its Own Way*, NEWSWEEK (Int'l ed.), Dec. 23, 1991, at 14 (estimating Taiwan's foreign exchange reserves to be \$80 billion). But see Joel Kotkin, *The Chinese Connection: Who Are These 'Spacemen?' They Regularly Shuttle Between Taiwan and California, Bringing Money*, L.A. TIMES, Dec. 22, 1991, at M1 (estimating Taiwan's foreign reserves to be second to that of Japan).

<sup>2</sup> See generally Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4978 (Nov. 29, 1990).

the Act to suit countries such as Taiwan, Congress included an investor's provision which allows wealth as a criterion for citizenship.<sup>3</sup> Experts predicted that the provision had the potential to bring eight billion dollars in investment and create 100,000 job opportunities in the United States annually,<sup>4</sup> with the bulk coming from Asia.<sup>5</sup>

Eagerly anticipating the influx of investors, U.S. businesspeople, lawyers, and even state governments scrambled to provide opportunities for the would-be investors. Dozens of U.S. citizens and businesses set up a trade show in Taipei, the capital of Taiwan, to entice investors into buying motel chains, hamburger stands, car washes, limousine services, and even arcade franchises.<sup>6</sup> Lawyers inundated Chinese newspapers and books with advertisements promoting these opportunities.<sup>7</sup> Seminars, both in Taiwan and the United States,<sup>8</sup> attempted to explain the intricacies of the law. Yet despite this flurry of activity, by the close of 1991 only 177 people worldwide had applied for the program,<sup>9</sup> and by July 1991,

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<sup>3</sup> See John Hiscock, *US Prepares to Welcome Million-Dollar Migrants*, DAILY TELEGRAPH, July 24, 1991, at 9.

<sup>4</sup> See Ashley Dunn, *\$1 Million Visas Seeking To Lure the Wealthy to U.S.; Immigration: It Is Hoped the Rich Will Open Businesses in This Country That Will Provide Jobs for Americans*, L.A. TIMES, July 21, 1991, at A1.

<sup>5</sup> See, e.g., Hiscock, *supra* note 3.

<sup>6</sup> See Jennifer Lin, *Fare Trade*, PHILA. INQUIRER, Oct. 23, 1991, at A1. Approximately 30 booths were manned by those hoping to attract investors to a specific product. In addition, 18 U.S. state governments rented booths, hoping to attract investment to their respective states. See *US Investment, Immigration Display Opens in Taipei*, Cent. News Agency, Sept. 9, 1991, available in LEXIS, Nexis Library, Currrnt File.

<sup>7</sup> See, e.g., *Yi Min Wen Ti Ji Xin Yi Min Fa [Immigration Questions and the New Immigration Law]*, WORLD J. (1991).

<sup>8</sup> See, e.g., *Tai Shang Hui Zhu Ban Pan Zheng Fen Jiang Jie Jiu Shi Nian Xin You Zi Yi Min Fa Lie [Taiwan Businessmen Sponsor Pan Zheng Fen's Explanation of the Immigration Act of 1990]*, CHINESE COMMUNITY NEWS, Sept. 16, 1991, at 15. Many of the U.S. seminars were held in Chinatown areas in an effort to convince Asians already in the United States to change their status, or to convince them to interest friends and relatives overseas in seeking citizenship under the Act. *Id.*

<sup>9</sup> See Ashley Dunn, *Lure of Visas Fails to Attract Rich Investors; Immigration: Program Draws a Fraction of the Expected Applications. Requirement of \$1-Million Investment is Cut in Half for Many Areas of Country*, L.A. TIMES, Dec. 24, 1991, at A3.

Taiwanese had submitted only nine preliminary applications.<sup>10</sup>

This Comment will discuss the reasons why response from the Taiwanese, once heralded as major investors under the Act, has been disappointing. After a background survey of the investor's visa and its appeal for Taiwanese investors, this Comment will argue that Congress overestimated the desire, particularly among the Taiwanese for U.S. citizenship. Efforts such as the island's six-year infrastructure plan are persuading Taiwanese to wait and see if the advantages of living in the United States can be achieved at home. Just as the United States launched the investor's program to revitalize its economy, Taiwan introduced its plan to recover from the subsequent ills of a waning manufacturing industry. The success or failure of Taiwan's plan will determine the types of investments which are made in the United States. If a failure in Taiwan's restructuring plan compels its citizens to emigrate in search of better living conditions, then Taiwanese-owned hot dog stands may soon spring up across the United States. The plan's success, however, would stimulate high tech investments to upgrade Taiwan's own industry and entice its citizens to remain. Instead of detracting from Taiwan's economy in favor of the United States, overseas investment by the Taiwanese would establish an economic network which would benefit both countries.

## 2. THE INVESTOR'S PROVISION OF THE IMMIGRATION ACT OF 1990

Congress optimistically began its investor program on October 1, 1991, marking the first time in history that the United States allowed wealth as a means of obtaining citizenship.<sup>11</sup> Apart from that factor, the provision closely resem-

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<sup>10</sup> See Dunn, *supra* note 4. This disappointing response may be contrasted with the flood of visa applications from aliens of 34 countries eligible under a first-come, first-served lottery category which drew almost 19 million applications for 40,000 slots. See Seth Mydans, *Foreign Millionaires in No Rush to Apply for Visas, U.S. Finds*, N.Y. TIMES, Dec. 22, 1991, pt. 1, at 18.

<sup>11</sup> In the past, foreign investors could immigrate to the United States through a nonpreference category. Under this category, no labor certification was required. The most recent provision required the applicant to invest \$40,000 and hire one U.S. citizen or permanent resident other than

bles the nonimmigrant E-1 treaty trader and E-2 treaty investor visas.<sup>12</sup> The initial regulations required an alien investor to: (1) establish a commercial enterprise; (2) invest a certain amount of capital in the enterprise; and (3) benefit the U.S. economy by employing at least ten full time workers.<sup>13</sup> The initial regulations also required a minimum investment of one million dollars; however, it reserved 3,000 of the 10,000 visas available annually for special "target areas"<sup>14</sup> which allowed smaller investments.<sup>15</sup>

In order to deter fraud, section 216A(a) of the Immigration Act of 1990 requires investors to undergo a two-year conditional period.<sup>16</sup> If, after two years, the Attorney General deter-

the applicant's relatives. See Thomas A. Aleinikoff & David A. Martin, *IMMIGRATION: PROCESS AND POLICY*, 210-11 (1991). However, since 1976 the nonpreference category has been filled by family and employer sponsored preferences, thus barring investors from immigrating through the provision. See generally *The New Immigration Act of 1990: Major Reforms of Legal Immigration*, HOUSTON BAR ASS'N, Jan./Feb. 1991. Investors thus resorted to entering through the old third and sixth preferences. See generally *Foreign Investors: Strategies for Obtaining Residence*, 4 IMM. LAW. REP. 97-102 (1985); Note, *Immigration for Investors: A Comparative Analysis of U.S., Canadian, and Australian Policies*, 7 B.C. INT'L & COMP. L. REV. 113 (1984).

<sup>12</sup> The E-1 treaty trader and the E-2 treaty investor are defined as: an alien entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he is a national . . . (i) solely to carry on substantial trade . . . principally between the United States and the foreign state of which he is a national; or (ii) solely to develop and direct the operations . . . of an enterprise in which he is actively in the process of investing, a substantial amount of capital.

Immigration and Nationality Act § 101(a)(15)(E), 8 U.S.C. § 1101(a)(15)(E) (Supp. III 1991).

<sup>13</sup> See Immigration Act of 1990 § 121(a), 8 U.S.C. § 1153(b)(5)(A) (Supp. III 1991) (amending section 203 of the Immigration and Nationality Act). Only workers other than the alien and his immediate family qualify as the "ten U.S. workers" required under the Act. *Id.*

<sup>14</sup> See Immigration Act of 1990 § 121(a), 8 U.S.C. § 1153(b)(5)(B) (Supp. III 1991) (amending section 203 of the Immigration and Nationality Act).

<sup>15</sup> A "target area" is a rural area or an area with high rates of unemployment (150% higher than the national average). See Immigration Act of 1990 § 121(a), 8 U.S.C. § 1153(b)(5)(B)(ii) (Supp. III 1991) (amending section 203 of the Immigration and Nationality Act).

<sup>16</sup> See Immigration Act of 1990 § 121(b)(2), 8 U.S.C. § 1186b (Supp. III 1991) (adding section 216A(a) to the Immigration and Nationality Act). Immigration lawyers have already reported instances of unethical proposals. <https://scholarship.law.upenn.edu/jil/vol14/iss1/3>

mines that the alien has created a legitimate commercial enterprise in accordance with the Act, then the Attorney General may remove the conditional status.<sup>17</sup> The process leading to removal closely resembles the procedural guidelines for removal of status under section 2 of the Immigration Marriage Fraud Amendments of 1986.<sup>18</sup> Imposition of criminal penalties against aliens who perpetrate fraud creates an additional deterrent.<sup>19</sup>

Due to unenthusiastic response, Congress relaxed several provisions when it passed the Act's final regulations in November. Some applicants may now simply maintain ten existing jobs for U.S. citizens instead of creating ten new ones.<sup>20</sup> In addition, Congress officially lowered the amount of investment required in a target employment area.<sup>21</sup> In these areas, aliens need invest only \$500,000. Finally, investors may "put up less than \$500,000 cash through the use of loans."<sup>22</sup>

The lack of response, so far, has disheartened many who had originally envisioned throngs of foreigners clamoring to enter the United States. Many foreign businesspeople had long requested an investor category in order to permanently oversee their U.S. operations.<sup>23</sup> Congress had hoped that the category would attract foreign investment, as well as professionals and skilled workers. In addition, Congress had desired

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According to one lawyer, "I've seen one deal where they were trying to hawk a condominium complex in Texas. . . . They said the investor would earn \$1 million in three years. We all know what condominium complexes in Texas will earn." Susan Freinkel, *Investor Visa' Program Spawns Legal Niche; Buying Into America*, LEGAL TIMES, Nov. 25, 1991, at 2.

<sup>17</sup> See Immigration Act of 1990 § 121(b)(1), 8 U.S.C. § 1186b(c)(3)(B) (Supp. III 1991) (adding section 216(b) to the Immigration and Nationality Act).

<sup>18</sup> Cf. Immigration Marriage Fraud Amendments of 1986, Pub. L. No. 99-639, 100 Stat. 3357 (1986).

<sup>19</sup> See Immigration Act of 1990 § 121(b), 8 U.S.C. § 1325(c) (Supp. III 1991) (adding section 216A(f)(3) to the Immigration and Nationality Act).

<sup>20</sup> See Dunn, *supra* note 9.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at A3.

<sup>23</sup> See Austin T. Fragomen, Jr. & Gwendolyn M. Robosson, *The Foreign Investor: Current Approaches Toward United States Immigration Law*, 18 VAND. J. TRANSNAT'L L. 335, 372-73 (Spring 1985) (discussing the requirements for foreign investors who wish to reside in the United States to oversee investments).

an increase in the number of job opportunities for U.S. citizens to result from the flow of capital, as well as a reduction in the country's trade imbalance with other nations.<sup>24</sup>

### 3. TAIWAN'S ECONOMIC GROWTH

Many immigration experts expected the investor's provision to particularly appeal to the residents of Taiwan. Though approximately only the size of West Virginia,<sup>25</sup> Taiwan's economic growth has soared during the past forty years.<sup>26</sup> In 1962, Taiwan stood between Zaire and the Congo in global ranking of per capita income.<sup>27</sup> During the years of 1960 to 1980, the economy expanded approximately ten percent per year.<sup>28</sup> The country now predicts a per capita income of \$10,012 for 1992<sup>29</sup> and a per capita income of \$14,000 by 1996.<sup>30</sup> Although low by U.S. standards, Taiwan's per capita gross national product has increased more dramatically, on an incremental basis, than that of the United States in recent years.<sup>31</sup> In addition, the island still ranks far ahead of South Korea's 1991 per capita income of \$4,400 and mainland

<sup>24</sup> *Id.*

<sup>25</sup> See *With Money to Burn, Taiwan Finds U.S. Firms Hot for Investment Cash*, L.A. TIMES, Apr. 16, 1989, available in LEXIS, Nexis Library, Majpap File.

<sup>26</sup> See *ROC Looking Forward to Bright Future*, Cent. News Agency, Sept. 24, 1991, available in LEXIS, Asiapc Library, Allasi File.

<sup>27</sup> See *Governing the Market: Economic Theory and the Role of Government in East Asian Industrialization*, ECONOMIST NEWSPAPER LTD., June 1, 1991, at 85 (book review).

<sup>28</sup> See James B. Goodno, *Economic Growth in Taiwan Marred by Environmental Pollution Trends*, Mass. Inst. Tech. Alumni Ass'n, Aug. 1991, at 16.

<sup>29</sup> See *Fast-Growing Asia-Pacific Market is Hot and Cold*, CHEM. WK., Jan. 1-8, 1992, at 34.

<sup>30</sup> See Ronald E. Yates, *Taiwan's Massive Development Scheme a Business Bonanza*, CHI. TRIB., Nov. 4, 1991, § 4, at 1, 7.

<sup>31</sup> See Dr. Cheng F. Lee, Speech at the 1992 Intercollegiate Taiwanese Students Association Conference (Feb. 1992). In the past, Japan's incremental gains led to its present economic success.

	Per Capita Gross National Product		
	1980	1987	1991
Japan	\$ 9,000	\$19,000	\$25,000+
United States	\$12,000	\$18,000	\$21,000

Likewise, if Taiwan continues to increase its Per Capita Gross National Product, it has the potential to become a major economic leader. *Id.*

China's 1991 per capita income of \$350.<sup>32</sup> If Taiwan's per capita income rises as predicted, by the year 2000 it will rank among the top twenty countries with the highest standard of living.<sup>33</sup>

Much of Taiwan's successful climb towards economic prosperity has resulted from its historical emphasis on labor intensive manufacturing. Success in the manufacturing industry has, in turn, led to prosperity in real estate and the stock market. For example, peasants who owned empty plots of land near Taipei have watched real estate values soar as much as 400%, raising the cost of real estate to the levels of New York and Hong Kong.<sup>34</sup> In recent years, the stock market has served as another source of easy income. Although the Taiwan Stock Exchange has only 170 listed companies, its statistics are astounding.<sup>35</sup> In 1991, activity on the Taiwan Stock Exchange soared to make it the most active in the world, with annual trading volume exceeding 175 billion shares. This figure surpasses that of the Tokyo Stock Exchange, the New York Stock Exchange, and the Hong Kong Stock Exchange.<sup>36</sup> The number of stock brokerage firms increased tenfold, enticing many Taiwanese to quit their jobs in order to gamble on the stock market.<sup>37</sup>

#### 4. TAIWAN'S FOREIGN INVESTMENT

##### 4.1. Taiwanese Foreign Exchange Reserves

Recent prosperity has made substantial overseas investment a relatively new activity for the Taiwanese.<sup>38</sup> The

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<sup>32</sup> See Sheryl WuDunn, *Taiwan Sets Plan To Rebuild Nation*, N.Y. TIMES, Oct. 27, 1991, at A1.

<sup>33</sup> See Dinah Lee, *Rebuilding a Tiger: Who'll Get the Lion's Share?*, BUS. WK., Mar. 25, 1991, at 46.

<sup>34</sup> See Paul Mooney, *Prosperous Taiwan Becomes the 'Floating Casino' of Asia*, S.F. CHRON., Jan. 12, 1990, at A23.

<sup>35</sup> *Id.*

<sup>36</sup> Cristina Lee, *Exchange Serves as Chinese Financial and Social Center; Stocks: Irvine-Based Hung Foo Trading Office Links Investors to Taiwan Market. People Also Gather There to Discuss Events in Asia*, L.A. TIMES, Mar. 29, 1992, available in LEXIS, Nexis Library, Majpap File.

<sup>37</sup> See *The Conquest of China*, ECONOMIST NEWSPAPER LTD., Aug. 31, 1991, at 29.

<sup>38</sup> See *With Money to Burn, Taiwan Finds U.S. Firms Hot for Investment*

country possesses eighty-two billion dollars in foreign exchange reserves, which averages over \$3,500 for each resident<sup>39</sup> and is more than any other nation.<sup>40</sup> Leading the world in this category has been a dubious honor, however, as the United States has used the island's prosperity as a bargaining chip during trade talks.<sup>41</sup> In an effort to lower its foreign exchange reserves, the Taiwanese government instituted a plan in 1987 which encourages individuals to annually invest up to five million dollars abroad without individual approval.<sup>42</sup>

#### 4.2. Taiwanese Outbound Investment

Although many wealthy Taiwanese have since transferred their capital to countries such as Australia and Canada,<sup>43</sup> which began offering investor visas long before the United States, a steady stream of investment has continued to flow from the island. During the first ten months of 1991, Taiwan's overseas investments reached the equivalent of \$1.43 billion, 18.4% more than investments made during the same period the previous year.<sup>44</sup> According to the director of Taiwan's

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*Cash*, *supra* note 25.

<sup>39</sup> See *Taiwan Forex Reserves the World's Largest in 1991*, *supra* note 1.

<sup>40</sup> See *With Money to Burn, Taiwan Finds U.S. Firms Hot for Investment Cash*, *supra* note 25.

<sup>41</sup> See, e.g., Sheryl WuDunn, *McDonnell's Rich Taiwanese Backer*, N.Y. TIMES, Dec. 2, 1991, at D1.

<sup>42</sup> See *With Money to Burn, Taiwan Finds U.S. Firms Hot for Investment Cash*, *supra* note 25.

<sup>43</sup> The U.S. investor visa is the most expensive of the lot. Programs in New Caledonia and Fiji require a smaller investment of \$77,000. Tonga requires only \$17,500. See Dunn, *supra* note 4. Among the Taiwanese, investor visa programs in Australia and Canada have proven the most popular. Australia began its program in 1982. Requiring an investment of \$120,000, it brought in \$1.3 billion in new investments during 1990, with the bulk of the 10,000 settlers from Asia. See Al Kamen, *An Investment in American Citizenship: Immigration Program Invites Millionaires to Buy Their Way In*, WASH. POST, Sept. 29, 1991, at A1. The Canadian Ministry of Employment and Immigration began its investors program in 1986. Applicants may choose among three minimum investment levels: \$15,000, \$250,000, or \$700,000. The program has brought in over \$3 billion annually, and has created over 40,000 jobs. See Ronald G. Atkey, *Canadian Immigration Law and Policy: A Study in Politics, Demographics, and Economics*, 16 CAN.-U.S. L.J. 59 (1990).

<sup>44</sup> See *Taiwan's Investment Abroad Surges*, NIKKEI WKLY., Nov. 30, 1991, <https://scholarship.law.upenn.edu/jil/vol14/iss1/3>



Industrial Development and Investment Center, however, the actual amount is approximately ten times the official figure.<sup>45</sup>

The inaccuracy results from businesspeople who do not report their overseas investments in order to avoid paying taxes.<sup>46</sup>

#### 4.3. *Taiwanese Investment in the United States*

Taiwanese businesspeople, through both official and unofficial means, often channel investment towards the United States. Although they have scattered major ventures in various areas of the world,<sup>47</sup> the United States was the

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at 32.

<sup>45</sup> See Chen Chien-kuo, *Taiwan's Overseas Investment Seen Surging in 1989*, Reuter Bus. Rep., July 12, 1989, available in LEXIS, Asiapc Library, Allasi File. The U.S. Chamber of Commerce has also made it a practice to multiply the number by ten. See Sam Jameson, *The Scramble to Court Taiwan Investors*, L.A. TIMES, Feb. 18, 1991, at D3.

<sup>46</sup> See *Taiwan January-November Foreign Investment Up Over Year Ago*, Reuters, Dec. 13, 1991, available in LEXIS, Nexis Library, Currnt File. According to Chyan Chuan-beng, manager of the economic analysis department at the state-owned Bank of Communications, tax evasion by businesses in Taiwan range from \$3.9 to \$5.8 billion annually. See Chen Chien-kuo, *Taiwan's Underground Economy Booms, Defying Govt*, Reuter Bus. Rep., Jan. 30, 1992, available in LEXIS, Nexis Library, Currnt File.

<sup>47</sup> Aside from the United States, Taiwanese invested substantially in various other countries, particularly in mainland China and Southeast Asia. Taiwanese are prohibited from directly investing in China, but many nonetheless manage to invest there through Hong Kong or U.S. firms. See Dan Southerland, *Business People on the Island See an Opportunity on Mainland*, WASH. POST, July 5, 1990, at D1. Between 1987 and 1991, approximately 2,000 to 3,000 Taiwanese have poured over \$2 billion in the mainland. See Robert W. Gibson, *China, Taiwan Groping Toward Interdependence*, L.A. TIMES, Apr. 8, 1991, at D1. The Taiwanese government estimates that the island's businesses have invested more than \$10 billion into Southeast Asia in the past three years. See *ROC Becomes Major International Investor*, Cent. News Agency, Nov. 18, 1991, available in LEXIS, Nexis Library, Currnt File. Taiwan was the leader in foreign investment in Vietnam during the first quarter of 1991, receiving \$2 million in project approvals. See *Vietnam: IBC Int'l Country Risk Guide*, Oct. 1991, available in LEXIS, Nexis Library, Currnt File. Taiwan invested \$903 million in Indonesia during the first half of 1991. See *Asian News; Taiwan Replaces Japan as Indonesia's Top Investor*, Kyodo News Serv., July 29, 1991, available in LEXIS, Nexis Library, Currnt File. Taiwanese investment in Malaysia during the first seven months of 1988 trailed only the United States and Japan. See *Malaysia to Guarantee ROC Investments There*, Cent. News Agency, Sept. 7, 1988, available in LEXIS, Asiapc Library, Allasi File. Taiwan invested \$135 million in the Philippines during the first half of 1990. See *Philippines Country Marketing Plan FY '91*, National Trade Data Bank, June 12, 1991, available in LEXIS, Nexis

favorite destination for investment during the first half of 1990.<sup>48</sup> In 1991, the United States dropped to second place, yet it nevertheless attracted an official amount of \$208 million, with unofficial estimates even higher.<sup>49</sup> Although some investments culminate in car washes and food chains, recent notable investment efforts have targeted petrochemicals, aerospace, finance, and high technology.

#### 4.3.1. Petrochemicals

Taiwan's largest corporate conglomerate is the Formosa Plastics Group, a manufacturer of petrochemicals. In 1989, Taiwan permitted the corporation to invest \$200 million to form two U.S. subsidiaries.<sup>50</sup> Formosa Plastics now runs fourteen plants in the United States,<sup>51</sup> including a \$1.3 billion petrochemical plant in Texas,<sup>52</sup> and it plans to increase its U.S. investment.<sup>53</sup> As Formosa Plastics is also the top producer of polyvinyl chloride pipe in the United States,<sup>54</sup> its engineers from both countries travel freely between offices to exchange scientific knowledge.<sup>55</sup>

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Library, Currnt File.

<sup>48</sup> See *ROC Investments Overseas Leap 5 Times in Half Year*, Cent. News Agency, July 6, 1990, available in LEXIS, Nexis Library, Majpap File.

<sup>49</sup> See *Foreign Investment In Taiwan Plunges Jan-Oct 1991*, Reuters, Nov. 15, 1991, available in LEXIS, Nexis Library, Currnt File. Malaysia surged ahead of the United States in 1991 to become the most popular nation for Taiwanese investment. *Id.*

<sup>50</sup> See *Formosa Plastics to Invest 200 M. U.S. Dollars in U.S.*, Cent. News Agency, Aug. 15, 1989, available in LEXIS, Asiapc Library, Allasi File.

<sup>51</sup> See Louis Kraar, *Ten to Watch Outside Japan*, FORTUNE, Fall 1990 (spec. ed.), at 25.

<sup>52</sup> Wang Yung-ching, founder and head of Formosa Plastics, had also proposed to build a seven billion dollar naphtha cracking plant in Xiamen, China. See *Taiwan Plastics Tycoon Holds to Multi-Billion Project in China*, Agence Fr. Presse, Oct. 11, 1991, available in LEXIS, Nexis Library, Currnt File.

<sup>53</sup> See OIL & GAS J., Dec. 16, 1991, at 4, available in LEXIS, Nexis Library, Currnt File.

<sup>54</sup> See Kraar, *supra* note 51.

<sup>55</sup> For example, Formosa Plastics embarked on a joint venture with PPG Industries, a U.S. fiberglass corporation to build a plant in Jiayi, Taiwan. Formosa Plastics sent several Taiwanese engineers to the PPG plant in Lexington, North Carolina for a summer to learn scientific techniques which would be applied to the Jiayi plant.

### 4.3.2. Aerospace

Another example is the Taiwan Aerospace Corporation. In mid-November 1991, the relatively unknown entity agreed to pay two billion dollars for a forty percent share in Douglas Aircraft, a division of the McDonnell Douglas corporation, the second largest manufacturer of civilian aircraft in the United States.<sup>56</sup> This deal marked one of the world's most significant aircraft ventures.<sup>57</sup> After much negotiation, Douglas Aircraft and Taiwan Aerospace Corporation failed to finalize the deal; however, the attempt signifies Taiwan's increasing clout in the international investment arena.<sup>58</sup>

### 4.3.3. Finance

A third example involves the world of business and finance. In December 1991, twenty major Taiwan business conglomerates and companies donated ten million dollars to the Massachusetts Institute of Technology's Sloan School of Management. The donation will fund research to improve Asian economies and train Taiwanese businesspeople in the management sector.<sup>59</sup>

Another significant example has involved California's financial institutions. GBC Bancorp of Los Angeles, California, was recently ranked the best bank among the nation's three hundred largest publicly traded banks.<sup>60</sup> With assets of \$773 million, the majority of the bank's shareholders, directors, and management are Taiwanese. Most of the bank's earnings are from first generation Taiwanese immigrants and Taiwanese trade.<sup>61</sup> Taiwanese investors, along with other Chinese investors, own over thirty banks in Southern Califor-

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<sup>56</sup> See WuDunn, *supra* note 41. The largest U.S. manufacturer of civilian aircraft is the Boeing Company.

<sup>57</sup> See George White, *Aerospace: Central Figure in McDonnell Douglas Deal, David Huang Had a Long Engineering Career in U.S.*, L.A. TIMES, Nov. 22, 1991, at A1.

<sup>58</sup> Michael Stroud, INVESTOR'S BUS. DAILY, Nov. 18, 1992, available in LEXIS, Nexis Library, Currnt File.

<sup>59</sup> See Ronald Rosenberg, *Taiwanese Give MIT \$10m for Economic Research*, BOSTON GLOBE, Dec. 19, 1991, at 57.

<sup>60</sup> See *Ethnic Taiwanese Bank Takes First Place*, U.S. BANKER, Nov. 1991, Nat'l Ed., at 13.

<sup>61</sup> *Id.*

nia.<sup>62</sup> Unlike Japanese-owned banks, the Taiwanese-owned banks been quite successful and often provide loans for small businesses.<sup>63</sup> Other investors living in Taiwan hold banking interests in various parts of the country.<sup>64</sup>

#### 4.3.4. High Tech Industry

Other examples target the high technology industries. A Ministry of Economic Affairs official has estimated that the Taiwanese have invested over \$1.5 billion annually in Southern California since 1985.<sup>65</sup> In 1989, the China Trust Investment Co. headed a Taiwanese consortium in the purchase of Wyse Technology Inc. for \$270 million.<sup>66</sup> Wyse, a United States based corporation, has been reputed to be "the world's largest independent producer of computer terminals."<sup>67</sup> Presently, at least seven publicly traded electronics companies founded by Taiwanese reported revenues of at least thirty-six million dollars during the last full fiscal year.<sup>68</sup>

Less publicized examples, yet more common, are the smaller investments. In San Jose, California, Dastek, a tiny computer equipment company, could not find a U.S. investor to revive it. After a Taiwanese financier invested one million dollars in the company, the firm generated sales of ten million

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<sup>62</sup> See Kotkin, *supra* note 1.

<sup>63</sup> *Id.*

<sup>64</sup> See Nancy Yoshihara, *Investment: Groups From Taiwan Are Buying Banks to Help Support the Growing Taiwanese Business Community Here. The Diversification Marks a Change in Their Strategy*, L.A. TIMES, May 14, 1990, at D1.

<sup>65</sup> See Robert W. Gibson, *New Investment, Immigration Form a 'Chinese Rim'—U.S. Capitalists Are Transforming U.S., Canadian, Australian Cities*, SEATTLE TIMES, Aug. 19, 1990, at J3.

<sup>66</sup> Hsin-Hsin Yang, *Taiwan Wilds Its Economic Clout*, Agence Fr. Presse, June 23, 1991, available in LEXIS, Nexis Library, Currnt File.

<sup>67</sup> Andrew Quinn, *Taiwanese Businessmen Go Shopping for Overseas Companies*, Reuter Libr. Rep., Dec. 12, 1989, available in LEXIS, Asiapc Library, Allasi File.

<sup>68</sup> Andrew Pollack, *It's Asians' Turn in Silicon Valley*, N.Y. TIMES, Jan. 14, 1992, at D1. These companies and their annual revenues are: Solectron Corporation (\$265 million), Cadence Design Systems (\$231 million), Advanced Logic Research (\$228 million), Qume Corporation (\$217 million), Komag Inc. (\$149 million), Weitek Corporation (\$58 million), and Sigma Designs Inc. (\$36 million).

dollars within two years.<sup>69</sup> Acer, the island's leading producer of personal computers, acquired Counterpoint Systems of Silicon Valley in 1987. A smaller computer company, Microtek, bought out Mouse Systems. Both investments amounted to less than five million dollars.<sup>70</sup>

#### 4.3.5. *Significance of Investment*

These examples signify the island's emergence as a serious contender in the world of international investment.<sup>71</sup> Although the type of investments vary, most share a common denominator. Unlike immigrants who settle for hot dog stands, many investors hope to create a transfer of information or services to the island. For example, the acquisition of U.S. high tech firms supplies a source of scientific information to upgrade Taiwan's own industry.<sup>72</sup> In addition, banking ventures create a financial network spanning the ocean which cater to the interests of overseas investors. Because Taiwan's economy presently has outstripped the growth rate in the United States, channelling resources back home creates a potential for increasing investments and even greater profits.

### 5. TAIWANESE RESPONSE TO THE INVESTOR'S PROVISION

Because the Taiwanese continue to pour enormous amounts of capital into the United States, many experts have been puzzled by their indifference to the investor's law. Various explanations have emphasized that at one million dollars, the provision is not a bargain. Experts have cited various factors: the wealthy have already immigrated to other countries offering citizenship at a lower price,<sup>73</sup> the sagging U.S.

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<sup>69</sup> See *With Money to Burn, Taiwan Finds U.S. Firms Hot for Investment Cash*, *supra* note 25.

<sup>70</sup> Quinn, *supra* note 67.

<sup>71</sup> See WuDunn, *supra* note 41.

<sup>72</sup> See WuDunn, *supra* note 41. Aside from technology and financial industries, Taiwanese have also invested in other areas. The Lai Lai Sheraton Group, owner of one of Taipei's most prestigious hotels, bought Mandarin Hotel in San Francisco. Shareholders in Taiwan's Continental Engineering Corporation bought The American Bridge Company for \$200 million in 1989. See Quinn, *supra* note 67.

<sup>73</sup> See Dunn, *supra* note 4.

economy promises bleak investment returns,<sup>74</sup> the United States subjects its citizens to worldwide taxation on all investments,<sup>75</sup> many foreigners waited for the passage of final regulations,<sup>76</sup> and the rich have the resources to be happy wherever they live.<sup>77</sup>

These economic justifications, however, overlook another important factor that may be swaying the Taiwanese. Most islanders cite living conditions as the main reason for emigration.<sup>78</sup> Despite the country's stunning economic successes, many yearn for a better quality of life: a decent sunset, a satisfying job, and a sense of tranquility amidst an island crowded with twenty million people.<sup>79</sup> These factors, coupled with the uncertain political relationship with mainland China,<sup>80</sup> persuaded 100,000 people to emigrate from Taiwan

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<sup>74</sup> See Wendy Lin, *'Millionaire Visas' Are Going Begging*, NEWSDAY, July 7, 1991, at 12.

<sup>75</sup> See Susan Freinkel, *'Investor Visa' Program Spawns Legal Niche; Buying Into America*, LEGAL TIMES, Nov. 25, 1991, at 2.

<sup>76</sup> See Dunn, *supra* note 4.

<sup>77</sup> See Tom Schmitz, *Greenbacks for Green Cards: U.S. Has Begun Offering Visas to Investors*, PHILA. INQUIRER, Oct. 5, 1991, at C13.

<sup>78</sup> See *Taiwan's Workforce Wants Slice of Pie*, Bus. Asia, Apr. 16, 1990, available in LEXIS, Asiapc Library, Allasi File.

<sup>79</sup> See *Taiwan Police Disrupt Independence March*, WASH. TIMES, Sept. 9, 1991, at A2.

<sup>80</sup> Political ties between mainland China and Taiwan have been tense and uneasy. Both the mainland and the Kuomintang ("KMT"), a political party which retreated from the mainland in 1947, view Taiwan as a province of the mainland. Ironically, both also view themselves as the mainland's legitimate government. The KMT advocates reunification between the two countries. Like the Cantonese, who fear the return of Hong Kong to the mainland in 1997, many Taiwanese fear reunification with a country of such vastly different ideology and living standards. Recently an opposing party, the Democratic Progressive Party ("DPP"), surfaced to support Taiwan's independence. See Tony Emerson, *Going Its Own Way*, NEWSWEEK (Int'l Edition), Dec. 23, 1991, at 10. China's President, Yang Shangkun, threatened to "wash the island in blood" if Taiwan declared independence. See Tony Emerson, *Would Beijing Dare Invade?*, NEWSWEEK, Dec. 23, 1991, at 16. A recent survey revealed that if Taiwan reunified with the mainland tomorrow, 26.9% of respondents would feel "very afraid." If, instead, Taiwan declared independence tomorrow, 47% of respondents would feel "very afraid." See *Ban Shu Tai Wan Min Zhong Pan Wei Chi Bu Tong Bu Du Xian Zhuang [Half of Taiwan's Population Hopes to Maintain No Reunification No Independence Situation]*, WORLD J., Oct. 28, 1991, at 1. Thus the Taiwanese find themselves in an uneasy political situation, and many immigrate to escape an uncertain future.

in 1989 alone, three times the number who left during the preceding five years. Although the waning manufacturing industry has left the country with many problems, the Taiwanese government hopes that its efforts to address these problems will transform the country into one with lasting prosperity.

### 5.1. *Taiwan's Waning Manufacturing Industry*

Traditionally, Taiwan has relied on labor intensive manufacturing for its phenomenal economic growth. The continuing increase in wage rates, however, has forced Taiwanese companies located in Taiwan to relocate abroad.<sup>81</sup> The nation's economy has already developed in several areas, from increasing import-export trading to establishing overseas factories, investment and distribution.<sup>82</sup> Unfortunately, the industry which catapulted the island to economic success has left a rocky road in its wake.

#### 5.1.1. *Pollution*

Taiwan, like other Asian countries which relied on manufacturing to spur economic growth, is now paying the price for disregarding its toll on the environment. The manufacturing industry has tarnished a country once known for its scenic beauty. With the world's greatest vehicle density rate,<sup>83</sup> air pollution has become so serious that schoolchildren wear face masks during classes to avoid pollution from nearby factories.<sup>84</sup> At least forty-three carcinogens have been identified in the drinking water, some at levels 2,000 times the amount deemed safe.<sup>85</sup> All forty-five rivers contain toxic waste, and one underground well contains so many contaminants that a

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<sup>81</sup> See *Country Outlooks: Taiwan*, World Information Services, May, 1991, available in LEXIS, Asiapc Library, Allasi File.

<sup>82</sup> *Id.*

<sup>83</sup> See Paul Mooney, *Taiwan Choking on Own Pollution*, S.F. CHRON., Jan. 24, 1990, available in LEXIS, Nexis Library, Majpap File.

<sup>84</sup> *Id.*

<sup>85</sup> See Charles P. Wallace, *Pollution is Price of Asia Boom; Unprecedented Industrial Growth in the '80's Brought Widespread Damage to the Water and Air: Government Has Been Slow to Deal with the Threat*, L.A. TIMES, Feb. 15, 1991, at A1.

match would ignite it.<sup>86</sup>

### 5.1.2. Real Estate

Emphasis on manufacturing has also left Taiwan's twenty million citizens without adequate, affordable housing.<sup>87</sup> With costs rising as much as forty-four percent on some parts of the island, residents find themselves unable to pay \$450,000 for an average apartment, much less the luxury of a parking space in Taipei for \$130,000.<sup>88</sup>

### 5.1.3. Crime

Ironically, Taiwan's new-found prosperity and ninety-one percent literacy rate<sup>89</sup> has produced a generation unwilling to perform labor intensive work in the factories.<sup>90</sup> Observing the seemingly effortless prosperity of others, some prefer criminal activity to honest labor.<sup>91</sup> Since Taiwan ended martial law in 1987, the country has become a haven for kidnappers,<sup>92</sup> extortionists,<sup>93</sup> and smugglers.<sup>94</sup> Police

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<sup>86</sup> *Id.*

<sup>87</sup> See Paul Mooney, *Prosperous Taiwan Becomes the 'Floating Casino' of Asia*, S.F. CHRON., Jan. 12, 1990, at A23.

<sup>88</sup> *Id.*

<sup>89</sup> See Goodno, *supra* note 28.

<sup>90</sup> See *Taiwan's Workforce Wants Slice of Pie*, *supra* note 78. As a result, many of Taiwan's workers migrated to the island from poorer Southeast Asian nations. *Id.*

<sup>91</sup> One criminal has taken this attitude to the extreme. Generally, the owners of stolen cars in Taiwan had been phoned with a demand for ransom. Instead of retrieving the money on his own, the voice on the phone instructed the car owner to attach the money to a pigeon in a bamboo cage, which then flew back to its owner. Recently, however, police have surmised that the crimes may have been committed by "an even lazier and even more inventive criminal mind." Instead of stealing the car himself, the thief simply scanned the classified section and phoned car owners who reported a theft. See Andrew Higgins, *Taiwan Police Cannot Cage Pigeon-Post Ransom Hoaxer*, INDEPENDENT, Nov. 8, 1991, at 1.

<sup>92</sup> Taiwanese reported 145 kidnappings in 1988, in addition to the hundreds that police estimate are never reported. See Ronald E. Yates, *Isle of Safety Evaporates in Flood of Guns*, CHI. TRIB., July 11, 1990, at M5. The wealthiest man in Taiwan, Chang Yong Fa, chairman of the Evergreen Group, a shipping conglomerate, paid a \$1.9 million ransom for his kidnapped son in 1989. See *Taiwan Executes 3 Kidnappers*, CHI. TRIB., July 22, 1990, at C20. Kidnappers demanded \$3.8 million, the most expensive ransom ever paid, for the return of Wu Tung-liang, an executive of the Shin



seized 9,770 guns, more than the previous five years combined.<sup>95</sup> One newspaper listed 120 financial crimes within just one month.<sup>96</sup>

## 5.2. *The Restructuring of Taiwan*

### 5.2.1. *Taiwan's Six-Year Infrastructure Program*

For Taiwanese who are still contemplating emigration, the government's new six-year infrastructure program may swing the balance in urging them to stay. The main lure of the United States investment program was citizenship—a chance to continue foreign investment with an improved quality of life. Now, despite the problems previously mentioned, that quality of life may be achieved at home.

Forced to recognize the resulting ills of the manufacturing industry, the Taiwanese government has embarked on an bold six year program to spend an estimated \$303 billion to revitalize the country,<sup>97</sup> three times the amount necessary to reconstruct war-torn Kuwait.<sup>98</sup> The government will use these funds to improve the country's roads, bridges, housing, environment, health-care, agriculture, energy, education, and recreational facilities.<sup>99</sup> It is hoped that the 779 projects

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Kong group in December of 1990. See *Taiwan Executes Tycoon's Kidnappers*, Reuter Libr. Rep., Nov. 7, 1991, available in LEXIS, Nexis Library, Currnt File.

<sup>95</sup> Arson has become one of the top crimes in Taiwan. Businesses often fall prey to arsonists when they refuse to pay extortion money. See, e.g., *Xin Zhu Qing Shan Guan Zao Xi Zong Huo [Hsinchu Green Mountain Palace Suffers Evening Arson]*, WORLD J., Dec. 30, 1991, at 9. A recent victim of arson was a hospital in Hsinchu which refused to pay \$30,000 New Taiwan Dollars to extortionists. The resulting fire killed six people and injured 26. *Id.*

<sup>94</sup> The largest shipment of heroin seized in U.S. history (1,170 lb) traveled through Kaohsiung, Taiwan before its arrival in California. See *Taiwan Declares War on Drugs*, Reuter Libr. Rep., Nov. 7, 1991, available in LEXIS, Nexis Library, Currnt File.

<sup>95</sup> See Shirley Lai, *Crime Stings Newly Affluent Taiwanese*, CHI. TRIB., Apr. 29, 1990, zone C, at 13D.

<sup>96</sup> See Drew Torchia, *Financial Scandals Sweep Taiwan As Government Cracks Down*, Reuter Bus. Rep., Aug. 1, 1991, available in LEXIS, Nexis Library, Currnt File.

<sup>97</sup> See Yates, *supra* note 30.

<sup>98</sup> See Lee, *supra* note 33.

<sup>99</sup> See Yates, *supra* note 30.

which make up the program will transform the country into one based on high tech industry and the advantages which accompany such a transition.<sup>100</sup>

The six year plan will change the Taiwanese lifestyle in many ways. First, besides obvious major improvements in the environment, minor improvements will also make life on the island more pleasant. For example, residents will no longer have to wait five minutes for a dial tone when calling from a public telephone.<sup>101</sup> Garbage piles will no longer line the lanes.<sup>102</sup> A lightening-fast railway system will reduce the travel time from Taipei to the southern city of Kaohsiung from five hours to ninety minutes.<sup>103</sup> Although these changes are not dramatic, they provide a level of convenience and comfort that is standard in the United States.

Second, the plan will provide new job opportunities for the nation's citizens. The work offered by the higher paying high tech industry as well as jobs created by the six-year plan itself

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<sup>100</sup> *Id.* The type, number and cost of the projects are contained in the following table.

TYPE OF PROJECT	NUMBER	COST (in billions)
Transportation, Communications	100	\$102.64
Energy Development	77	37.03
Housing, Urban Development	44	34.48
Social Enrichment	39	29.43
Culture, Education	93	29.28
Irrigation, Water Conservation, Flood Control	61	16.45
Industrial Development	73	12.37
Environmental Protection	67	10.72
Agriculture, Forests, Fisheries	79	9.89
Science, Technology	67	8.64
Tourism, Recreation	30	4.68
Public Health	9	3.99
Services	10	1.51
Others	26	3.94
<b>Totals</b>	<b>775</b>	<b>\$305.05</b>

See Albert G. Holzinger, *Revitalizing a Country; Taiwan, Nation's Business*, Sept. 1991, at 42, available in LEXIS, Nexis Library, Currnt File.

<sup>101</sup> See Lee, *supra* note 31.

<sup>102</sup> *Id.*

<sup>103</sup> See Holzinger, *supra* note 100.

will challenge those who refused to work in the low-paying, labor-intensive manufacturing industry. This will accommodate the drop in the number of skilled workers from sixty percent of the work force to forty percent by the year 2000.<sup>104</sup> While the government first offers job opportunities to Taiwanese firms before considering bids from abroad,<sup>105</sup> even foreign firms will provide a benefit to Taiwan by bringing new technology to the island. By providing job satisfaction, the government can reduce the number of emigrants.

The recent influx of Taiwanese who returned home after a stint in the United States strongly supports this theory. Drawn by a fondness for the homeland and new investment opportunities, many native Taiwanese are returning to help the country evolve from a manufacturing based industry to one of high technology.<sup>106</sup> Between 1987 and 1989, over 500 engineers left the United States to work in Taiwan's Hsinchu Science-based Industrial Park, an area similar to California's Silicon Valley.<sup>107</sup> Many brought with them valuable scientific technology that has enabled the country to boldly enter the world of international investments.<sup>108</sup>

This counter migration will also enable the Taiwanese to

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<sup>104</sup> See *Taiwan's Workforce Wants Slice of Pie*, *supra* note 78.

<sup>105</sup> See *Taiwan*, Country Outlooks, Nov. 1991, available in LEXIS, Asiatic Library, Allasi File.

<sup>106</sup> See Teresa Watanabe, *Career Opportunities Help Lure Engineers Trained and Educated in America Back Home. The Trend Could Spell Trouble for U.S. High-Tech Industries*, L.A. TIMES, Dec. 29, 1989, at A1.

<sup>107</sup> *Id.*

<sup>108</sup> A striking example is that of David Huang, who worked as an engineer at Rocketdyne and won an award from the National Aeronautics and Space Administration for helping to develop the rockets for the 1969 Apollo mission. Returning to Taiwan 12 years ago, he served as a major figure in a Taiwanese consortium's bid to buy a 40% stake in McDonnell Douglas for two billion dollars. See George White, *Taiwan Group's Leader is Symbol of High-Tech Shift; Aerospace: Central Figure in McDonnell Douglas Deal, David Huang Had A Long Engineering Career in U.S.*, L.A. TIMES, Nov. 22, 1991, at A1. Another example is Bobo Wang, who once worked as an engineer for Xerox in California. Now, as the President of Microtek International, Inc. in Taiwan, he is worth \$36 million. See Watanabe, *supra* note 106. Yet another example is Leonard Liu, who served as IBM's highest ranking Taiwanese in Silicon Valley before becoming president of Acer in 1989. *Id.* Acer recently purchased Altos Computer Systems, a California-based computer corporation for \$94 million. See Phyllis Feinberg, *Asian Investment: It's Not All Coming From Japan*, COMM. CHANNELS INC., Mar. 1991, at 46.

retain residents who formerly would have left to find more satisfying work, such as in the field of innovative products development. For example, Acer Computer Systems has been developing a four-megabit memory chip,<sup>109</sup> and Microelectronics Technology, another Taiwanese firm, developed the portable satellite phone popularized by news correspondents in the 1991 U.S.-led war against Iraq.<sup>110</sup> In the past decade, Taiwanese students have earned more engineering doctorates in the United States than foreign students from any other country.<sup>111</sup> Recent surveys show that the percentage of Taiwanese graduate students who remain in the United States has declined from eighty percent to sixty percent.<sup>112</sup> According to one returnee, the opportunities in Asia have outstripped the expansion potential in the United States.<sup>113</sup>

Foreign business interests have also taken notice of Taiwan's potential. In December 1992, former U.S. Trade Representative Carla Hills travelled to Taiwan, the first visit by a U.S. Cabinet officer since 1979. Hills arrived with an impressive group of U.S. businesspeople, attorneys, and government officials, all hoping to bid for projects and assist in the infrastructure program.<sup>114</sup> Intense interest from countries such as the United States is helping to raise Taiwan's status from a poor, manufacturing island to that of a rapidly improving technological center.<sup>115</sup>

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<sup>109</sup> Acer has also been a universally recognized producer of cloned computers. New emphasis on recognition of its innovative products resulted in an expenditure of \$36 million during 1991. Considered a risky gamble, Acer's president replied that he was "building for the future." See Jagannath Dubashi, *The Dragon's Curse*, FIN. WORLD, July 23, 1991, at 46.

<sup>110</sup> See Andrew Tanzer, *The Great Leap Forward*, FORBES, Apr. 15, 1991, at 108. The firm was the brainchild of eight microwave engineers working together in California. The firm now commands over 60% of the world's market for its product. *Id.*

<sup>111</sup> See *With Money to Burn, Taiwan Finds U.S. Firms Hot for Investment Cash*, *supra* note 25. Taiwanese students receive one of every five engineering doctorates conferred on foreign students. See Watanabe, *supra* note 106.

<sup>112</sup> *Id.*

<sup>113</sup> See Tanzer, *supra* note 110.

<sup>114</sup> Peter H. Stone, *Taiwan's Reeling Them In*, 24 NAT'L J. 2783 (Dec. 5, 1992). Taiwan and Washington broke off diplomatic relations in 1979. Since 1991, U.S. firms have earned over one billion dollars from contracts with the Taiwanese government.

<sup>115</sup> Other countries besides the United States have begun to increase ties

### 5.2.2. Finance and Management

The six year plan complements the government's separate efforts to improve the quality of life in other areas. Recently, the island has also been preparing itself to become a major financial center. Last year, for the first time in forty years, the government approved the opening of fifteen privately owned banking institutions.<sup>116</sup> In the past, state-dominated banks catered to large conglomerates, thus driving small and mid-size firms to financing from underground banks.<sup>117</sup> The new private banks, which will target these smaller firms, will aid in providing funding, enforcing laws copyright piracy laws, and collecting taxes.<sup>118</sup> In addition, the "Big Three" state-run banks must now offer fair interest rate policies to stay competitive with the private banks.<sup>119</sup>

The Taiwanese have also begun to encourage second generation Taiwanese-Americans to seek management positions in Taiwan. Unlike their parents, who are less familiar with U.S. management styles, second generation Taiwanese possess a special link between the United States and Taiwan. Having grown up in the United States, they are familiar with U.S. methods of conducting business. At the same time, their cultural heritage enables them to communicate more effectively with Taiwanese businesspeople. Such skills enable Taiwanese overseas transactions to be more

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with Taiwan. *See, e.g., Australian Minister Re-Opens Contact with Taiwan*, Reuter Libr. Rep., Oct. 27, 1992, available in LEXIS, Nexis Library, Currnt File; *Canadian Officials Upbeat About Taiwan Ties*, Central News Agency, Oct. 14, 1992, available in LEXIS, Nexis Library, Currnt File. Taiwan's infrastructure program seems to have also enabled it to garner support for its present bid for GATT membership. Former U.S. Trade Representative Carla Hills not only brought U.S. businesspeople to Taiwan but has also strongly urged the U.S. government to support the island's entry into the association.

<sup>116</sup> *See* Luisetta Mudie, *Private Banks Start to Open in Taiwan*, FIN. TIMES, Jan. 28, 1992, at 4.

<sup>117</sup> *See* Chen Chien-kuo, *Taiwan's Underground Economy Booms, Defying Govt*, Reuter Bus. Rep., Jan. 30, 1992, available in LEXIS, Nexis Library, Currnt File.

<sup>118</sup> *Id.*

<sup>119</sup> *See* Chen Chien-kuo, *New Banks Spark Wave of Competition in Taiwan*, Reuter Libr. Rep., Jan. 10, 1992, available in LEXIS, Nexis Library, Currnt File.

efficient and efficacious.<sup>120</sup>

With businesspeople on both sides of the Atlantic, Taiwanese may easily establish networks which facilitate investment opportunities.<sup>121</sup> For those who remain in the United States, looking homeward is the logical solution for investment funding.<sup>122</sup> Those who remain at home may achieve senior level executive positions and the concomitant benefits without missing valuable investment opportunities in the United States.<sup>123</sup> As Taiwan continues to improve its high tech industries, the bonds between the two countries will only grow stronger, obviating the need to leave the island for job satisfaction.

### 5.2.3. Crime

While providing jobs for workers and expanding the banking system will indirectly deter crime, Prime Minister Hau Pei Tsun has directly addressed the issue. On November 21, 1991, police began a crackdown on crime in anticipation of the National Assembly elections on December 21. By December 11, police had arrested 1,149 fugitives, 229 gangsters, 4,482 burglars, 131 illegal immigrants, and 1,182 extortionists.<sup>124</sup> There is no guarantee that the crime rate will ever drop to the levels present during martial law. However, popular destinations for Taiwanese immigrants, such as the United States, Canada, and Australia, suffer from a more serious crime rate.<sup>125</sup> Coupled with the country's shift

<sup>120</sup> See Lee, *supra* note 31.

<sup>121</sup> Some have argued that such networks have been established by overseas Taiwanese around the world. See Kotkin, *supra* note 1.

<sup>122</sup> See Feinberg, *supra* note 108.

<sup>123</sup> One reason Taiwanese cite for returning to Taiwan is the difficulty minorities encounter in being promoted to achieve senior level executive positions in the United States. See *id.* Another commonly cited reason has been the racism experienced by Asians in countries where they are a minority. See, e.g., *Trade Minister Berates New Zealanders' Racism Towards Asians*, Reuter Libr. Rep., Aug. 19, 1991, available in LEXIS, Nexis Library, Currnt File.

<sup>124</sup> See *Some 13,000 Rounded Up in Pre-Election Crime Crackdown*, Agence Fr. Presse, Dec. 11, 1991, available in LEXIS, Nexis Library, Currnt File.

<sup>125</sup> See Paul Mooney, *Economic Growth in Taiwan Sends Crime Rate Soaring*, S.F. CHRON., Feb. 20, 1990, at A15.

towards democracy, many foresee a safer, more stable future.<sup>126</sup>

## 6. CONCLUSION

Although the Immigration Act of 1990 has attracted fewer foreign investors than originally expected, the lack of response from Taiwan has not dealt a bitter blow to the original purposes of the Act. Hot dog stands, carwashes, motel chains, and limousine services will always appeal to those seeking a quick investment scheme to gain U.S. citizenship. Taiwan's own experiences with the manufacturing industry, however, vividly illustrate the problems resulting from a short term outlook. In case of Taiwan, immediate economic prosperity alone could not atone for the lasting effects of a deteriorating environment. Similarly, U.S. citizenship alone will not satisfy those who witnessed Taiwan's ascent towards economic

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<sup>126</sup> In December 1991, voters participated in an historic election. In 1990, Taiwan's Council of Grand Justices required that the country's over 500 mainland-elected representatives retire by the year's end, leaving the slots open for younger, Taiwan-elected representatives. See Emerson, *Going Its Own Way*, *supra* note 80. The country's tri-cameral parliament consists of the Legislative Yuan, the Control Yuan, and the National Assembly. Eighty-one aging parliamentarians left the Legislative Yuan, 469 members stepped down from the National Assembly, and 30 members retired from the Control Yuan. See *A New Era Dawns As All Senior MPs Retire*, Cent. News Agency, Jan. 1, 1992, available in LEXIS, Nexis Library, Currnt File. The aging members had presided since their election before the Nationalists' 1949 retreat from mainland China. See David Schlesinger, *China's Harsh Words to Taiwan Show Fear of Changing World*, Reuter Libr. Rep., Oct. 16, 1991, available in LEXIS, Nexis Library, Currnt File. For the first time in history, those chosen to the National Assembly by Taiwanese voters would wield exclusive power to elect the country's president and approve final amendments to the 1947 Constitution. Such power would determine "nothing less than the future of democratic reform and possibly the island's very freedom." Emerson, *Going Its Own Way*, *supra* note 80. Although the controlling KMT party maintained 71% of the 325 available seats in the National Assembly, see Dr. Tan-Shan Chen, Speech at the 1992 Intercollegiate Taiwanese Students Association Conference (Feb. 1, 1992), the opportunity for Taiwanese to elect the representatives who directly affect their future represents a great step towards democracy. Chinese from the mainland represent less than 22% of those elected, see *Nationalists Win Major Victory*, FACTS ON FILE WORLD NEWS DIGEST, Dec. 31, 1991, at 1009 G1, and the new members' concerns will concentrate more on the future of Taiwan rather than that of the mainland. See Yojana Sharma, *Taiwan: Elections Seen as a Referendum on Independence Bid*, Inter Press Service, Dec. 23, 1991, available in LEXIS, Nexis Library, Currnt File.

prosperity. In the long run, the Taiwanese hope to finally achieve a high quality of life and financial gain within their own country.

Ironically, the Taiwanese indifference to the Act may actually provide more sophisticated job opportunities for the U.S. worker.<sup>127</sup> Many argue that an investment of one million dollars is barely enough to start a business and pay ten workers. Thus, most who respond to the Act for the purpose of citizenship will concentrate on investments requiring minimum startup costs. Taiwanese investment shows no signs of slowing, and will probably increase while the island continues to expand its scientific knowledge from other countries. Recent Taiwanese investment in the high tech and management sectors have involved substantial sums of money, creating job opportunities for skilled labor. In the long run, these positions will benefit U.S. workers more than a plethora of low paying jobs in quick investment schemes.

Congress overestimated the appeal of the investor's law to foreigners, in particular to the residents of Taiwan. Subsequent changes in the final regulations may increase the number of applicants, yet luring the wealthy from Taiwan will not yield the greatest benefits. Taiwanese have already established a framework for creating an overseas network between the two countries. In order to encourage continued investment, Congress should rely less on the country's reputation as a modern, wealthy democracy and more on scientific exchange that will ultimately benefit both nations.

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<sup>127</sup> See Schmitz, *supra* note 77.