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Draft amendments to Trade Secrets Act

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The Trade Secrets Act was enacted in 1996 and subsequently amended in 2013. To evaluate the results of implementing the amended provisions in the past four years, the Taiwan Intellectual Property Office (TIPO) held a conference on February 22 2017, inviting representatives from the industry, the Judicial Yuan, the Ministry of Justice, the National Police Agency of the Ministry of the Interior and the Ministry of Labour to further discuss amendments to the act. After consolidating relevant opinions, TIPO prepared and published the draft amendments on April 20 2017 and held a public hearing on May 5 2017.

The key points of the draft amendments are as follows:

- Originally, infringement of trade secrets outside Taiwan was publicly prosecuted (Article 13-3). The draft amendments have revised this so to make such infringement indictable only on complaint by the trade secret owner.
- Article 13-5 has been added to the draft amendments so that the unrecognised foreign legal entity may also file a lawsuit to enhance the protection of trade secrets to include the foreign entities. This amendment may promote international trade and increase the willingness of multinationals to invest in Taiwan.
- Article 13-6 has been added to the draft amendments to make protective orders available. During an investigation by the public prosecutor, if the investigated materials involve trade secrets, the public prosecutor may deny or limit accessibility to review, duplicate or record via videotape the materials.
- The scope of reciprocity treatment in Article 15 has been expanded. Bilateral agreements and treaties applying to multinational treaties now also apply to relevant trade secret protection agreements entered into by relevant private organisations.

Nonetheless, following the public hearing, the consensus is that Article 13-3 should not be revised (ie, trade secret infringement should continue to be publicly prosecuted, but not be indictable only on complaint), and that the other amendments should proceed as proposed.

TIPO will further adjust relevant provisions based on the conclusions of the meeting and provide a revised version of the draft amendments for public discussion before submitting a consensus version for amendment.

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