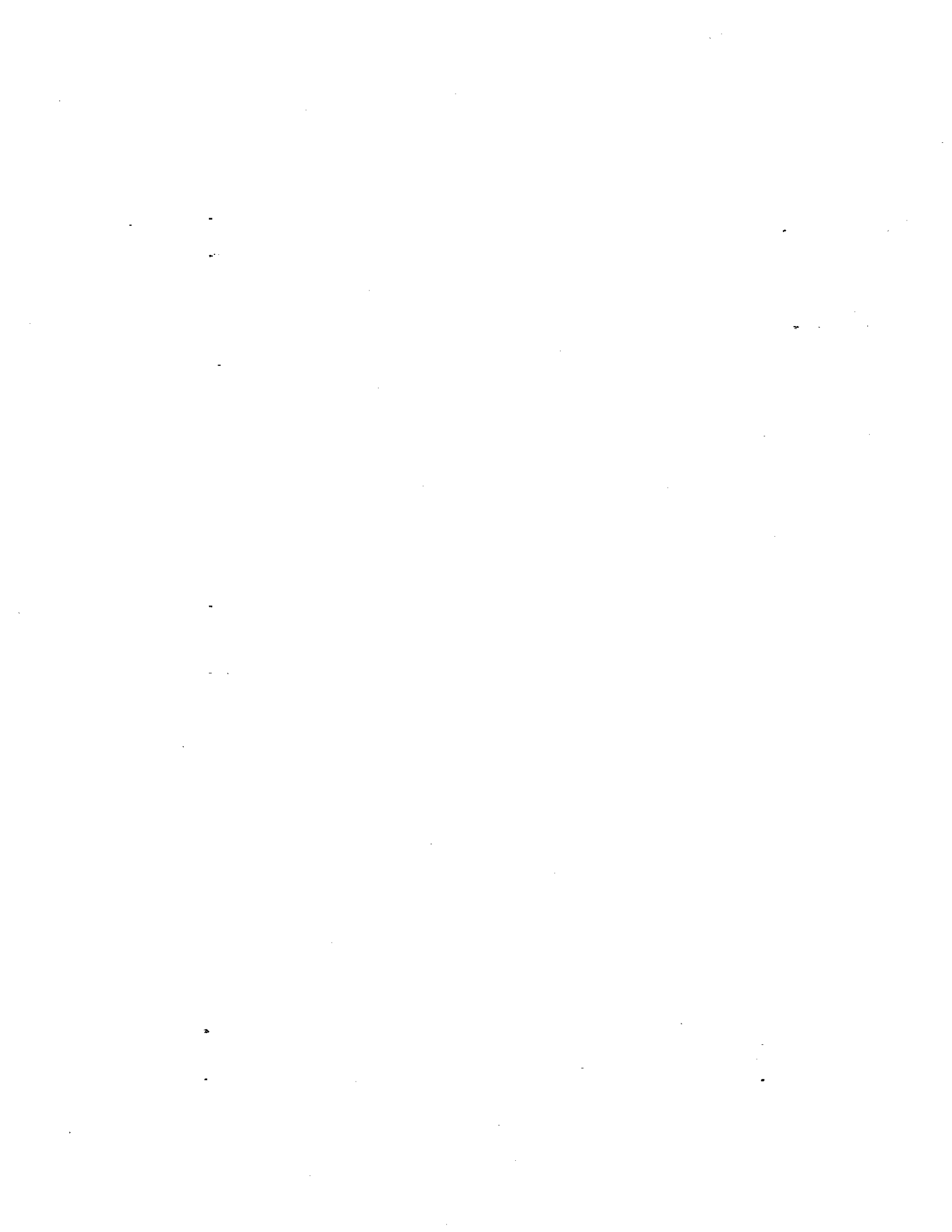


LABOR RIGHTS VIOLATIONS ON TAIWAN

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## Introduction

In 1974, the United States enacted a piece of trade legislation of enormous significance for the Third World: the Generalized System of Preferences. The legislation permits billions of dollars worth of goods from developing countries duty free access to the U.S. market.

When the U.S. Congress renewed the GSP program in late 1984, it enacted important new guidelines to help ensure that the legislation does not adversely affect the welfare of workers in the U.S. and in the beneficiary countries. Specifically, before the U.S. President declares a country eligible for GSP benefits, he or she must certify that the country abides by the following internationally recognized rights of workers:

1. The right to Association.
2. The right to organize and bargain collectively.
3. Freedom from forced and compulsory labor.
4. The right to a minimum working age.
5. Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

## Taiwan and the GSP

Taiwan has been a major recipient of GSP benefits: in 1982, goods from Taiwan received the largest share of benefits under the program, 27.7%. However, both the laws and actual practices on the island with respect to labor rights violate the standards which Congress has just added to the law in at least four of the five areas outlined above. Evidence concerning these violations is discussed below.

It is particularly in export oriented industries, such as the electronics, electrical machinery, and footwear industries, that these violations occur. We believe, therefore, that the worst violations occur in precisely those sectors of the economy which benefit the most from GSP. Among the major Taiwan products receiving benefits are electrical equipment of all kinds, furniture, toys and games, and jewelry. (1)

Because the authorities on Taiwan continue to rule under martial law, it is often difficult to obtain up to date information on labor conditions on the island. We have relied primarily on secondary sources as a result, but have used first hand accounts where available. Our informants on the island must remain anonymous for their protection.

We have arranged our testimony to correspond to the five categories of workers' rights outlined in the GSP amendments of last year.

The Asia Resource Center has attempted to publicize the violations of workers' rights on Taiwan since 1978, when our predecessor organization, the Asian Center, published the book Made in Taiwan. We believe that these violations are so serious as to warrant the suspension of Taiwan's eligibility for GSP benefits until conditions improve.

## I. Right to Association

### A. The Law

The Kuomintang (KMT, or Chinese Nationalist Party) assumed control of Taiwan on behalf of the Allied Powers in 1945, and has asserted sovereignty under the Republic of China Constitution of 1946 since that document's ratification. In 1949, virtually the entire KMT governing apparatus retreated to the island, vowing someday to return to the China mainland to defeat the "Communist bandits." Since that time, the KMT has ruled Taiwan under martial law. (2)

The Republic of China Constitution guarantees the right of association in Article 14. (3) However, the 1934 Martial Law Statute, as amended in 1949, permits the martial law commander (the Taiwan Garrison Commander) to suspend this right in Section 11.1, and to ban all strikes in Section 11.3. (4) Violators of martial law provisions are subject to courts martial (5). Violators of the ban on strikes are subject to the death penalty (6).

The government's 1972 reorganization of the Chinese Federation of Labor (CFL), the country's largest trade union group, included a modification of the martial law prohibition on strikes. Strikes are now permitted, but only if 100% of the affected workers vote to strike, and only if wages in the affected enterprise fall below minimum government standards (which are exceedingly low). (7)

Additional laws restrict the right of association, e.g., the Law Governing the Organization of Civic Bodies During the Extraordinary Period of 1942 permits the government to deny legal recognition to more than one association per function. Once the government has registered a functional group, additional organizations carrying out the same function become illegal, and members of such groups become subject to prosecution. (8)

The Statute of Denunciation of 1954 imposes an affirmative duty on all citizens to report violations of martial law and other illegal activities. Mere failure to report such activity carries a one-to-seven year prison sentence. (9)

### B. Actual Practices

Since 1949, the government has employed its martial law powers to control dissent at all levels of society. Those who challenge existing arrangements are frequently arrested, charged with "sedition," court martialed (often in secret), and sentenced to terms in military prisons. Martial law and associated powers are

also used to harass and even ban entire organizations; the ban on new political parties, for example, remains in force despite widespread popular sentiment in favor of launching a new opposition party. (10)

The KMT's pervasive control of the society extends to the trade union sphere. The CFL is under the effective control of the party, and many observers deny that free trade unions exist, although the CFL maintains contacts with the International Confederation of Free Trade Unions and the AFL-CIO. (11) In actual practice, union presidents are appointed by the Ministry of the Interior, and even shop stewards elected within enterprises are generally chosen by management and/or local party officials. Often, management personnel themselves fill steward and other enterprise-level union positions. Enterprise-level union welfare funds generally are under the effective control of management and the KMT, and are "donated" to government projects. (12)

Criticism of existing labor conditions and even academic research on working conditions and even academic research on working conditions and labor rights leads to government sanctions. As recently as last year, the government confiscated the entire press run of a magazine containing articles on working conditions on the island. In 1979, the authorities permanently banned the leading opposition periodical, Formosa Monthly, which devoted a great deal of coverage to the economic and social impact of the government's industrial policies. The government court martialled eight of the magazine's top staff members, who had also become leaders of the human rights movement on the island, and sentenced them to terms of 12 years to life in military prisons for "conspiring to overthrow the government." (13).

Rita Yeh Lao-ti, a sociologist interested in the problems of women workers, was arrested and secretly court-martialed after deciding to run for the national legislature as an independent reform candidate. She received a 14 year sentence in 1981 for "spying for the People's Republic of China." (14)

An American sociologist similarly interested in issues related to women workers, Professor Linda G. Arrigo, of the State University of New York at Binghamton, was expelled from the country, and has been denied permission to return. The authorities confiscated much of her research material. Her husband, Mr. Shih Ming-teh, the former general manager of Formosa Magazine, remains in military prison. (15)

The government has denied the right to register to independent organizations, such as the new Taiwan Association for Human Rights (founded last December), which express an interest in

labor problems and the rights of workers. The authorities justified this action under the one organization per function law. However, there is no other organization which monitors labor rights on Taiwan. (16)

No strikes have occurred since 1947. (17)

## II. Right to Organize and Bargain Collectively

### A. The Law

Liberal rights to organize and bargain collectively are guaranteed by law. (18)

### B. Actual Practice

Although 22.5% of the workforce was unionized in 1984, according to the U.S. Department of State, "Collective bargaining...does not take place," and for the most part, "labor unions do not exercise significant influence in the economic or political spheres." (19) The evidence also indicates that unions are ineffective in representing worker interests in the absence of collective bargaining, largely because of the close relations between unions, management, the ruling party, and the government.

Many unions function as "house unions," limited to a single enterprise, with no links to a larger labor organization. Such unions, by their very nature, have a weak bargaining position. (20)

The State Department feels that Taiwan's unions often play an important role in dispute resolution, but other observers contest this point. Affiliated unions are forced to refer grievances to county-level union bodies, which the ruling party generally controls. As a result, the grievances often go unresolved. (21).

Management has denied workers who attempt to organize independent unions the right to vote in the representation election. Independent organizing efforts have also sometimes led to the arrest of the organizers as subversives, and workers who bring grievances have faced similar charges, subjecting the defendant to court martial. (22)

Another barrier to effective representation of workers by their unions is the dominance of union staff positions by post-1949 immigrants from Mainland China with good connections to the KMT. These union officials are often unsympathetic and even hostile to the largely native Taiwanese workforce. (23)

The State Department reports that union officials who sit in the national legislature played an important role in the successful effort to amend the labor laws in 1984. Even this point is disputed, however; according to the Far Eastern Economic Review, it was the Ministry of Labor, rather than "Taiwan's government-controlled labor unions," which attempted to articulate worker interests during the debate over the legislation. (24).

### III. Forced or Compulsory Labor

There is no evidence of this presently available.

### IV. Minimum Working Age

Although the law specifies a minimum working age, actual practice allows girls to graduate from junior high school early, so as to begin working in export processing zones. There is, moreover, evidence that firms in these zones make no effort to determine the age of their workers. (25)

### V. Acceptable Conditions of Work with Respect to Minimum Wages, Hours of Work, and Occupational Safety and Health

#### A. The Law

The new Labor Standards Law of July 1984 extends minimum wage, maximum hours, overtime, pension, severance pay, vacation time, maternity leave, and bankruptcy protections to all workers in enterprises with 30 or more employees. The previous Factory Law of 1961 only covered factory workers and miners; the new legislation extends coverage to some three million additional workers in agriculture, fishing, construction, communications, transportation, and utilities. (26)

Extensive occupational safety and health legislation is also on the books (27).

#### B. Actual Practice

Preliminary analysis of the new labor law indicates that improved pension rights and other benefits have weakened job security, as firms are dismissing workers before they vest in retirement funds as a cost-cutting move. (28)

Workers who refuse to work overtime or who use accrued vacation time are often have their regular pay or scheduled bonuses docked.

Overtime pay is at one and one-third times the straight-time rate, but is not calculated using base pay plus benefits, allowances, and scheduled bonuses, but only the base pay figure. Thus, the wage rate for overtime is sometimes lower than effective regular pay rates. (29)

Enforcement of safety and health legislation is poor. Eye and respiratory problems are common in the electronics and electrical industries, where ventilation within plants is poor and no eye care is given to assembly workers who must use binocular microscopes (union organizing efforts around these issues have led to reprisals against the organizers). In the shoe industry, workers who handle hazardous chemicals such as high strength glues are not given special training or warnings about hazards in a language they can read. (30).

Safety and health conditions are especially poor in the mining industry, where mine fires are common. (31)

Much electronics and electrical machinery work is subcontracted to small home-based enterprises employing ten or fewer workers. These firms remain exempt from existing labor legislation. (32)

### Conclusions

We believe that Taiwan is in violation of four of the five labor standards enumerated in the 1984 GSP legislation. In the case of the right to association, the right to organize and bargain collectively, and acceptable conditions of work, we believe that the violations are especially egregious. We realize that our data in some cases are somewhat old, but we have reason to believe that since these data were collected, conditions have not improved and may have deteriorated.

Taiwan is not, moreover, a least developed country, but one with high levels of aggregate income, education, nutrition, and health care. This makes the government's failure to enact and enforce minimal protections for the rights of workers all the more indefensible.

Like other rapidly industrializing Asian countries, Taiwan is often accused of dumping goods produced with cheap labor in the U.S. market, and of attracting U.S. firms away from the United States because of its political stability, educated and skilled work force, and relatively low wage rates. Given the adverse impact this has had on jobs in America, surely the U.S. government should not, in effect, use the GSP program to subsidize Taiwan's exports by abetting the denial of minimum standards of workers' rights to the workers on the island.

Beyond the new provisions of the GSP program, the United States has a special obligation to attempt to maintain and enhance the human rights of the people on Taiwan. In the absence of diplomatic relations with the government on the island, the Taiwan Relations Act of 1979 reaffirms the human rights of all the people on Taiwan as an important U.S. concern. We have no doubt that it was the intention of Congress to include minimal labor rights within the scope of this provision of the law.

Therefore, in accordance with U.S. law, we recommend that GSP benefits be discontinued for Taiwan until there is a fundamental improvement in labor conditions.

### NOTES

1. "U.S. GSP Imports Country Detail, China (T), 1984, pp. 616-680.



2. Michael Reisman, "Who Owns Taiwan?," in Taiwan: The Silenced Majority, The Case for Self-Determination (Washington: Formosan Association for Public Affairs, 1984), p.8; "Martial Law on Taiwan and United States Foreign Policy Interests," Hearing Before the Subcommittee on Asian and Pacific Affairs, Committee on Foreign Affairs, House of Representatives, 97th Congress, Second Session, May 20, 1982 (Washington: U.S. Government Printing Office, 1982), p. 1.
3. Amnesty International, Amnesty International Briefing: Taiwan (Republic of China) (London: Amnesty International Publications, 1980), p. 2.
4. "Martial Law on Taiwan," p. 178.
5. Ibid., p. 177.
6. Ibid., p. 67; Linda Gail Arrigo, "Economic and Political Control of Women Workers in Multinational Electronic Factories in Taiwan: Martial Law Coercion and World Market Uncertainty," North American Taiwanese Professors' Association Bulletin 4:2 (December 1984): 20n.
7. Ibid., p. 134.
8. Taiwan Communique No. 18 (8 February 1985): 19-21; Carl Goldstein, "Eye on the Tangwai," Far Eastern Economic Review, 14 February 1985, p. 21.
9. "Martial Law on Taiwan," p. 131.
10. Department of State, Country Reports on Human Rights Practices for 1984 (Washington: U.S. GPO, 1985), pp. 750, 754, 755; Goldstein; Amnesty International, "Amnesty International's Concerns in the Republic of China (Taiwan)," ASA 38/08/83, 23 November 1983.
11. Department of State, p. 758; "Martial Law on Taiwan," pp. 41, 58.
12. Becky Cantwell, Don Luce, and Leonard Weinglass, Made in Taiwan: A Human Rights Investigation (New York: Clergy and Laity Concerned, 1978), p. 15; Arrigo, pp. 20-21.
13. Taiwan Communique No. 17 (8 November 1984): p. 11; Repression in Taiwan (New York: Clergy and Laity Concerned, 1980), pp. 5-9, 12-15.
14. Taiwan Communique No. 1 (10 December 1980): 10-11; "Amnesty International's Concerns in the Republic of China (Taiwan)," p. 17; Arrigo, p. 21.

15. Ibid., p. 22.
16. Taiwan Communiqué No. 17, pp. 19-21; interview observer from Taiwan.
17. "Martial Law on Taiwan," p. 131. According to Arrigo, job actions do in fact occasionally take place, especially in smaller, locally owned plants, but they are of short duration and rarely succeed. In Taiwan's tight labor market, dissatisfied workers have the option of changing jobs rather than striking. Arrigo also reports a "sit down" job action by 7,000 workers at an electronics assembly plant in 1975; however, management, government officials, military police, and the local union leaders convinced the workers to end this action after only one shift. The workers did not obtain the bonus they sought. See pp. 20n, 21; see also Made in Taiwan, p. 15.
18. Department of State, p. 758.
19. Ibid.
20. Ibid.; "Martial Law on Taiwan," p. 41.
21. Arrigo, pp. 20-21.
22. Ibid., p. 21; Made in Taiwan, p. 15.
23. Arrigo, p. 21.
24. Department of State, p. 750; Carl Goldstein, "Reforms Belabored," Far Eastern Economic Review, 6 September 1984, pp. 109-110; interview with observer from Taiwan.
25. Arrigo, pp. 18-20; Made in Taiwan, pp. 13-14.
26. Goldstein, "Reforms Belabored."
27. Arrigo, p. 20.
28. Interview with observer from Taiwan.
29. Arrigo, pp. 22-23.
30. Ibid., pp. 21-23; Made in Taiwan, p. 15.
31. Interview with observer from Taiwan.
32. Arrigo, p. 23.