

HONG KONG

In 1997, the U.S. trade surplus with Hong Kong reached \$4.8 billion, up \$730 million from 1996. U.S. merchandise exports to Hong Kong totaled \$15.1 billion (an 8.3 percent increase from the same period in 1996). U.S. imports from Hong Kong rose 4.4 percent to \$10.3 billion.

The stock of U.S. foreign direct investment in Hong Kong rose to \$16 billion in 1996, up from \$13.8 billion in 1995. U.S. direct investment in Hong Kong is largely in the services and financial sectors.

Overview

On July 1, 1997, Hong Kong became a special administrative region (SAR) of the People's Republic of China (PRC). Under the PRC's policy of "one country, two systems," as guaranteed by the 1984 Sino-U.K. Joint Declaration and the 1990- Basic Law, Hong Kong is to enjoy a "high degree of autonomy" from the PRC in managing its trade, financial, social, legal and other internal matters for fifty years.

Although China has assumed responsibility for conducting foreign affairs and defense matters for the SAR, Hong Kong remains a separate customs territory with all of its previous border and customs arrangements. As a separate customs territory with autonomy in the conduct of its economic, trade and financial policies, Hong Kong retains independent membership in economic organizations, such as the World Trade Organization and APEC.

INTELLECTUAL PROPERTY PROTECTION

A high level of copyright piracy is a continuing and growing problem in Hong Kong. Over the past few years, the United States has urged the Hong Kong government to stop the widespread and open sale of pirated product at the retail level. Complaints about the sale of goods with counterfeit trademarks at the retail level are also increasing.

Production and distribution of pirated CDs, CD-ROMs, VCDs and LDs (optical media) has been a growing problem, as authorities in the PRC have clamped down on production of pirated optical media in South China. U.S. officials have urged Hong Kong to address the growing production of pirated product through legislative action, heightened enforcement activity and coordination with PRC officials.

In June 1997, Hong Kong's legislature enacted a new copyright law that grants customs authorities increased enforcement powers and addresses some of the problems with burdensome evidentiary requirements related to prosecuting copyright infringement cases. In addition to meeting TRIPs requirements, enforcement provisions in the copyright law are intended to address the widespread and open sale of pirated software, sound recordings and motion pictures in the various arcades in Hong Kong.

With the tremendous increase in the number of optical media production lines in Hong Kong, the United States has emphasized the need to control piracy at this level. In December 1997, Hong Kong instituted a licensing regime for the import and export of optical media production equipment. In January 1998, Hong Kong

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authorities introduced new anti-piracy legislation that will further enhance enforcement officials' power to investigate production facilities, gather evidence of infringement and monitor firms' activities through use of source identification codes for optical media. Hong Kong has also increased resources devoted to IPR enforcement and conducted more raids on retail outlets and production facilities, and increased seizures of pirated product. Hong Kong customs authorities are also coordinating to some extent with provincial customs authorities in mainland China. Finally, judges are beginning to impose more stringent penalties for copyright infringement, albeit at a slow pace.

So far, the government's actions have failed to control piracy at the retail level. Although Hong Kong Customs has been able to dampen the sale of pirated goods at a few major retail centers for short periods, it has been unable to reduce the overall availability of pirated goods. Industry sources believe the availability of pirated goods in Hong Kong actually increased in 1997. The government has succeeded in closing a few illicit production facilities, but the number of production lines continues to grow. Pirated product from Hong Kong, Taiwan and Macao is being discovered in other markets, such as Paraguay.

Intellectual property rights industry associations estimate the losses due to piracy in Hong Kong at well over \$100 million. The challenge for the Hong Kong government in 1998 is to implement new legislation and take effective action against producers of pirated product and to achieve a sustained and substantial reduction in the availability of pirated and counterfeit goods at the retail level.

ANTICOMPETITIVE PRACTICES

Competition Policy

For years, the Hong Kong Government has tolerated and even encouraged certain anti-competitive practices in a limited number of services sectors, even while maintaining an open trade regime in the rest of the economy. More recently, it has begun to tackle these restrictive practices via sector specific initiatives, but has continued to reject calls for a comprehensive competition law.

There remain competition policy concerns especially in sectors such as telecommunications, broadcasting, and professional services. In telecommunications, the HKSAR has reached an agreement to end Hong Kong Telecom International's exclusive license for international voice services, but it remains unclear how fully it will open the market. In broadcasting, there are limitations on competition through tight restrictions on the number of licenses. The government has committed to review these restrictions in 1998. In professional services, the Government's delegation of regulatory authority to certain professional associations may have led to collusive behavior and anti-competitive practices. Lack of a comprehensive competition law is restricting the Government's ability to attack these and other restrictive trade practices.