

TAIWAN

TRADE SUMMARY

The U.S. trade deficit with Taiwan was \$12.9 billion in 2004, a decrease of \$1.3 billion from \$14.2 billion in 2003. U.S. goods exports in 2004 were \$21.7 billion, up 24.6 percent from the previous year. Corresponding U.S. imports from Taiwan were \$34.6 billion, up 9.6 percent. Taiwan is currently the 9th largest export market for U.S. goods.

U.S. exports of private commercial services (i.e., excluding military and government) to Taiwan were \$4.9 billion in 2003 (latest data available), and U.S. imports were \$4.9 billion. Sales of services in Taiwan by majority U.S.-owned affiliates were \$8.3 billion in 2001 (latest data available), while sales of services in the United States by majority Taiwan-owned firms were \$684 million.

The stock of U.S. foreign direct investment (FDI) in Taiwan in 2003 was \$11.0 billion, up from \$10.2 billion in 2002. U.S. FDI in Taiwan is concentrated largely in the finance, manufacturing, and wholesale sectors.

IMPORT POLICIES

Tariffs

Taiwan promulgated a comprehensive tariff revision schedule on January 1, 2004 in compliance with Taiwan's Free Trade Agreement with Panama, and Taiwan's accession commitments to the WTO. Tariffs on pharmaceuticals, pulp/paper, iron/steel, construction equipment, agricultural equipment, medical equipment, furniture and toys were eliminated starting on January 1, 2004. As a result, the average nominal tariff rate on imported goods in 2004 was approximately 5.7 percent and is expected to fall to 5.5 percent by 2007. However, U.S. industry continues to request that Taiwan lower tariffs on imports of many goods, including large motorcycles, wine, canned soups, cookies (sweet biscuits), savory snack foods, vegetable juices, potato and potato products, table grapes, apples, fresh vegetables, and citrus products.

Upon Taiwan's accession to the WTO in January 2002, Taiwan implemented tariff-rate quotas (TRQs) on small passenger cars, three categories of fish and fish products, and a number of other agricultural products. On January 1, 2004, in accordance with its WTO accession commitments, Taiwan made additional tariff cuts and increased TRQ amounts on these products. Certain items of interest to U.S. exporters, including chicken meat, pork belly, and poultry and pork variety meats, will be fully liberalized in 2005. In May 2004, Taiwan increased the sugar TRQ by 50,000 tons to 255,000 tons to meet Taiwan's domestic market shortage.

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Taiwan has notified the WTO that it maintains Special Safeguards (SSGs) for a number of agricultural products covered by TRQ's. SSGs, permitted under Article 5 of the Agreement on Agriculture, allow Taiwan to impose additional duties when import quantities exceed SSG trigger volumes or import prices fall below SSG trigger prices. As Taiwan has not imported many of these products previously, SSG trigger volumes are relatively low. SSGs will also come into play once certain commodity imports are fully liberalized in 2005 and will likely have the greatest effect on U.S. poultry exports. The United States has raised concerns over Taiwan's use of SSGs.

Licensing and Other Restrictions

In order to comply with its WTO commitments, Taiwan eliminated import controls on over 99 percent of 10,912 official import product categories. Currently, 24 product categories require import permits from the Board of Foreign Trade. Imports of 65 categories are restricted, including ammunition and some agricultural products. These items can only be imported under special circumstances, and their importation is effectively banned.

Agricultural and Fish Products: Prior to its WTO accession, Taiwan banned or restricted imports of 42 agricultural and fish items. In January 2002, Taiwan liberalized imports of 18 of these agricultural and fish categories and implemented TRQs on the remaining 24 items. TRQs on a number of products of interest to the United States (chicken meat, pork belly and offal, and poultry offal) will be eliminated on January 1, 2005 when trade is fully liberalized.

Rice: Before Taiwan's WTO accession, imports of rice were banned. During 2002, rice imports were subject to an absolute quota that covered both public- and private-sector imports. In 2003, Taiwan changed its rice import regime to a tariff-rate quota system without consultation with its trade partners. As a result, in January 2003 the United States, as well as Australia and Thailand, formally objected to Taiwan's proposed rice import system at the WTO. Since then, the United States has also raised concerns regarding Taiwan implementation of its rice import system, including cancellation of mark-up price reductions for several private-sector tenders, and the use of a "ceiling price" for public-sector tenders. Despite these difficulties, U.S. suppliers were able to gain a majority of the rice import market in 2002 and 2003. In 2004, Taiwan's implementation of its import commitments improved significantly and U.S. rice suppliers, again, supplied a majority of rice imports to the Taiwan market. Also, during 2004 the United States and Taiwan made substantial progress in resolving outstanding differences. However, as 2004 came to a close, certain rice suppliers to the Taiwan market other than the United States did not agree to proposed modifications to Taiwan's rice import system. As a result, Taiwan will continue its current system for 2005 while, at the same, working toward final resolution of the rice import issue.

Tobacco and Alcohol Products: As a condition of Taiwan's WTO accession, a new tobacco and alcohol management and tax system went into effect on January 1, 2002. In place of the previous tax on imports administered by the former monopoly authority, the Taiwan Tobacco

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and Wine Monopoly Bureau (TTWMB), Taiwan agreed to impose an excise tax and to eliminate tariffs on imports of most spirits.

Taiwan also liberalized private alcohol production upon its accession to the WTO and private cigarette manufacturing in 2004. TTWMB became a state-owned corporation, Taiwan Tobacco and Liquor Corporation (TTLC), in July 2002. However, primarily due to resistance by organized labor, the privatization of the TTLC has been postponed until 2005.

Wood Products: Taiwan has revised building codes in line with international practices. However, Taiwan has not yet completed a companion fire code. This delay means that while a wood frame structure may be built, approval by fire inspection authorities is contingent on review and comment by a special committee on details, such as design and usage. U.S. wood products companies have raised concerns that this practice is restrictive and does not encourage wood use in construction. The continued use of a special committee rather than finalizing a fire code unnecessarily delays construction of wood structures and raises the cost of using wood materials significantly beyond that of other materials such as concrete and steel.

Automobiles and Motorcycles: Local content requirements in the automobile and motorcycle industries were lifted as part of Taiwan's WTO accession. The importation of motorcycles with engines larger than 150 cc was liberalized in July 2002 as part of Taiwan's WTO commitments. In mid-2003 Taiwan agreed to set emissions standards for motorcycles over 700 cc in line with international standards, a step which the U.S. motorcycle industry supported. The U.S. Government remains concerned with Taiwan's tariffs and other taxes on large motorcycles as well as Taiwan's restrictions on motorcycle access to highways.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Industrial and Home Appliance Products: Industrial and home appliance products (such as air-conditioning and refrigeration equipment) are subject to safety and electro-magnetic compatibility (EMC) testing requirements before clearing customs. The manufacturers or importers can choose tests on each shipment either based on "batch-by-batch inspection" (BBI) with Type Approval or "registration of product certification" (RPC). All safety testing for end products must be done in Taiwan by Taiwan accredited laboratories. In accordance with the APEC Telecommunications Mutual Recognition Agreement, Taiwan accepts EMC testing by NIST-accredited laboratories in the United States only for information technology equipment. For those products that adhere to the ISO 9000 quality management system, an alternative factory inspection module was introduced. The manufacturers or importers may choose the module most appropriate to them when applying for registration under the RPC scheme.

Sanitary and Phytosanitary Measures: As a member of the WTO, Taiwan must abide by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (including notification of such measures). In 1998, Taiwan agreed to accept meat and poultry imports from plants approved by the USDA Food Safety Inspection Service. In 1999 and 2000, Taiwan agreed

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to accept *Codex Alimentarius* or U.S. pesticide residue standards for some chemicals used on imported fruits and vegetables. However, the United States continues to be concerned that some Taiwan plant and animal quarantine measures are not always based on sound science and are more trade restrictive than required.

Beverage Alcohol Products: On December 31, 2001, immediately before its WTO accession, Taiwan implemented new regulations requiring major ingredient labeling for beverage alcohol products. Although these regulations affect international trade, the United States was not informed by Taiwan in advance of their implementation. Bilateral meetings were conducted in 2002 to discuss this requirement and as a result, enforcement of the ingredient labeling requirement was delayed until July 2003. In December 2003, Taiwan's legislature passed the Tobacco and Alcohol Administrative Law (TAAL), which enabled the Ministry of Finance (MOF) to eliminate ingredient labeling requirements for beverage alcohol products. Effective July 1, 2004, alcoholic beverage product labels do not need to include a list of ingredients.

Agricultural Biotechnology Products: Taiwan authorities generally have taken a cautious, but fairly rational approach to trade in agricultural biotechnology products. Risk assessment documentation on agricultural biotechnology corn and soybeans were required to be submitted to the Department of Health (DOH) before April 30, 2002, and mandatory labeling on certain corn and soybean products commenced in 2003. In October 2003, DOH announced its intention to require registration of agricultural biotechnology products other than corn and soybeans in 2004, but offered an opportunity for life science companies to obtain interim approval for those products currently commercialized. Mandatory labeling on all foods with over 5 percent agricultural biotechnology products content is required. No disruptions to trade have resulted from Taiwan's biotechnology regulations. However, with a number of products entering the regulatory approval pipeline and a lack of investment in a strong domestic regulatory infrastructure, delays in approvals have become more frequent.

Labeling of biotechnology food: Taiwan requires warning labels on foods containing biotechnology corn or soybeans. All food products containing 5 percent or more bioengineered soybean or corn ingredients by weight must be labeled as "Genetically Modified (GM)" or "Containing Genetically Modified."

Medical Devices: Registration and approval procedures for medical device imports are complex and time-consuming, and have been the subject of long-standing complaints by U.S. firms. The registration process requires redundant testing, and foreign manufacturers must re-register new products even though they are based on previously approved devices. In addition, regulations are vague on when local clinical trials are required for the review process or whether industry is allowed to provide additional input in response to questions posed by DOH officials reviewing the clinical trial submissions. The adoption of the U.S. Food and Drug Administration's medical device classification system in June 2000 was welcomed by industry. However, Taiwan's implementation of this system in 2004 was faulted by industry for requiring re-registration of previously approved products. This new system also required the registration of previously

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unregistered low risk medical devices (Class I) which are not typically registered in most advanced markets. U.S. firms have expressed concern that these new registration procedures require significantly more information (including sensitive information on manufacturing processes) than are commonly requested for other markets. Taiwan has identified both the medical device and pharmaceutical sectors as priorities for local development, resulting in Taiwan's agencies often favoring the interests of local companies over foreign firms.

Pharmaceuticals: Taiwan's lengthy pharmaceutical registration process slows market entry for new drugs that have already been approved in advanced economies and also imposes unnecessary costs on drugs that have been approved in Taiwan. In May 2001, the DOH announced a requirement for firms to submit voluminous amounts of proprietary manufacturing data as part of the registration and approval process for both new drugs and those already on the market. The amount of such "validation" data requested by Taiwan far exceeded international norms. In response to concerns raised by the United States and its industry, the DOH had postponed implementation of this requirement. In December 2002, the United States and Taiwan exchanged letters in which Taiwan affirmed its commitment to adhere to international practices as applied in advanced economies, and agreed that firms can demonstrate validation status by providing documentary evidence, including abridged registration applications. In August 2003, DOH and the U.S. industry reached agreement on validation data resolutions. However, in 2004 DOH began assigning risk-based "priority numbers" that will be used to determine which manufacturers are inspected by DOH. U.S. industry is concerned that these risk priority numbers (RPNs) are based on non-transparent criteria and inspections will unfairly target manufacturers that provide abridged data. Despite a mutual understanding that an abbreviated package that includes summary documentation is sufficient evidence to prove plant validation, companies choosing to provide the summary appear to be subject to automatic assignment of a RPN. Assignment of an RPN, industry believes, will result in costly, unnecessary inspections. Discussions between the United States and Taiwan to resolve remaining issues are ongoing.

Pricing and reimbursement policies also have been a long-standing concern for the U.S. government and innovative pharmaceutical producers. Taiwan uses various methods to lower assigned prices on innovative drugs, including "reference pricing" (assigning a lower price when a drug is approved for an additional use) and lowering assigned prices without a transparent process. In addition, Taiwan continues to restrict consumer choice and limit U.S. market access through disproportionate reimbursement of domestically-manufactured generic drugs. To address concerns of foreign pharmaceutical firms, Taiwan announced a revised reimbursement pricing plan in March 2003. In this plan, the DOH and the Bureau of National Health Insurance agreed to find ways to include a "reward for innovation" component in its pricing mechanism for new drugs. However, industry representatives have criticized the new drug pricing mechanism as non-transparent and believe the reimbursement prices will not achieve the stated objective. Discussions between the United States and Taiwan on this issue are ongoing.

Article 49 of Taiwan's National Health Insurance law mandates reimbursement of healthcare providers at actual transaction costs, but apparently this law is not enforced. In practice, locally-

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based generics producers offer significant and highly questionable discounts to the reimbursement rate. As a result, Taiwan healthcare providers increasingly choose generics over innovative medicines.

In July 2002, Taiwan introduced a "global budget" system in which hospitals receive lump sums from the National Health Insurance system to cover the cost of providing all services. The goal was to increase efficiency and encourage cost-cutting measures, but critics contend that global budgeting primarily encourages hospitals to increase requests for illegal discounts on pharmaceuticals and discourages the use of innovative medicines as budget pressures grow. Once global budgeting was enacted, hospitals immediately began to depend on larger profit margins from medicines, favoring locally-produced generics with large margins over innovative, usually foreign, pharmaceuticals as a means to cover budget shortfalls. The problem was exacerbated in 2004, when budget growth was capped at 4 percent. Research-based pharmaceutical companies estimate that global budgeting and self management of hospitals has cost them more than \$100 million in sales. With 2005 budget growth capped at 3.7 percent, U.S. companies selling innovative medicines in Taiwan face an even more restrictive marketing climate.

Blood and Plasma-derived Products: Taiwan's Legislative Yuan in December 2004 passed a law that directs the Taiwan government to monitor and, if necessary, restrict imports of blood, plasma, and plasma-derived products. These include products manufactured in the United States and frequently relied on by patients in Taiwan. The U.S. Government will closely monitor the implementing guidelines for this new law to ensure that Taiwan provides national treatment and fair market access in this sector.

Other issues: Taiwan banned imports of U.S. beef in December 2003 after the detection of one positive case of Bovine Spongiform Encephalopathy (BSE) in the State of Washington. As of the publication of this report, the U.S. Government is taking aggressive action and is working intensively to re-open the market as quickly as possible. Non-ruminant products for feed use, such as tallow, lard, poultry and porcine meal are banned. Limited exceptions are only approved after a very slow case-by-case review or plant clearance process.

GOVERNMENT PROCUREMENT

Taiwan committed to accede to the WTO Agreement on Government Procurement (GPA) as part of its WTO accession. While Taiwan has applied for accession to the GPA, its accession has not yet been completed due to differences regarding nomenclature issues. To prepare for its GPA accession, Taiwan implemented a new Government Procurement Law in mid-1999. This was an important first step toward establishing a transparent and predictable environment for Taiwan's multi-billion dollar market for public procurement projects. In August 2001, Taiwan and the United States signed a Memorandum of Understanding on Government Procurement (MOU). The MOU called for Taiwan to implement certain procedural commitments immediately, while others are to be implemented upon accession to the GPA. Taiwan also agreed to establish new

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procedures providing for the independent review of complaints that arise during the tendering process, to encourage its procuring entities to make use of mediation procedures, and to cooperate fully when such procedures are invoked. Despite these commitments, Taiwan officials have continued to incorporate provisions in public procurement tenders that appear to be inconsistent with the GPA. Further, the lack of transparency in the government procurement process as well as the review process for complaints remains a serious issue. U.S. participation in Taiwan's government procurement market continues to decline as a result of these practices. The United States has continuing concerns with Taiwan's government procurement environment.

EXPORT SUBSIDIES

The Taiwan government provides incentives to industrial firms in export processing zones and to firms in designated "emerging industries." Some of these programs may have the effect of subsidizing exports. Taiwan has notified the WTO of these programs and, as part of its WTO accession, committed to amend or abolish any subsidy programs inconsistent with WTO rules. Amendments of relevant laws, such as the Statute for Establishment and Management of Economic Processing Zones and the Statute for Establishment of Scientific Industrial Parks, to eliminate improper subsidies went into effect upon Taiwan's WTO accession. The United States continues to monitor Taiwan's compliance with the commitments it undertook as part of its WTO accession, including those obligations associated with the Agreement on Subsidies and Countervailing Measures.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

IPR protection continues to be an important and serious issue in the U.S.-Taiwan trade relationship. In 2004, Taiwan continued to take measures to improve enforcement of IPR, including intensifying raids against manufacturers and retailers, making permanent previously *ad hoc* task forces, and approving additional revisions to the copyright law that increase penalties for infringers. The U.S. International Intellectual Property Alliance estimates that losses due to IPR infringement in Taiwan cost U.S. industry \$315 million in 2004. The U.S. Government also continues to be concerned with the prevalence of counterfeit pharmaceuticals in Taiwan despite several large raids against manufacturers and the passage of amendments strengthening the pharmaceutical law. Another area of concern is the lack of adequate protection for the packaging, configuration, and outward appearance of all products – known as trade dress. U.S. industry has also complained about delays in court cases and the Taiwan judiciary's difficulty in handling technical cases. Generally, U.S. IPR holders find that court procedures themselves constitute barriers and penalties for intellectual property violations are inadequate to deter violators.

In April 2004, Taiwan was placed on the U.S. Special 301 Priority Watch List for the fourth year in a row, but was moved to the Watch List after an out-of-cycle review later that year determined that Taiwan had made sufficient progress to warrant a change in status. In addition, soon after the results of the out-of-cycle review were announced in January 2005, Taiwan's legislature

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approved a bill to prevent unfair commercial use of pharmaceutical test data. However, despite improvements, the United States will continue to monitor Taiwan authorities' development of implementing regulations for the protection of pharmaceutical test data, effective actions against piracy of copyrighted works over the Internet, and continued strengthening of enforcement efforts so that piracy and counterfeiting are effectively reduced. The United States also will follow with interest Taiwan's efforts to monitor exports of copyrighted materials, particularly software, to ensure that these efforts are as effective, or more effective, than Taiwan's Export Monitoring System Enforcement.

To improve Taiwan's ability to protect IPR, the government formulated a three-year (2003-2005) IPR Action plan. Measures included the establishment of the Integrated Enforcement Task Force (IETF) with a force of 220 police officers in January 2003; the opening of three warehouses for storing counterfeiting seizures; the raising of the informant reward to up to approximately \$310,000 per counterfeiting seizure; the strengthening of border control inspection for optical media exports; and the increasing of day and night inspection on optical media production facilities, night markets, and retail shops. Counterfeit goods seized by the U.S. Customs Service from shipments of Taiwan origin dropped from \$26.5 million in FY2002 to \$610,000 in FY2003, and to \$60,000 in the first half of FY 2004. The Business Software Alliance (BSA) also announced that the software piracy rate in Taiwan fell from 54 percent in 2002 to 43 percent in 2003, this rate remained unchanged in 2004.

After concerted lobbying by industry and the Taiwan executive branch, the Legislative Yuan in August 2004 passed a number of amendments to its copyright law. These changes were eliminated from consideration or not considered at all when the law was amended in June 2003. New amendments which improved the existing law include (a) technological protection measures; (b) heavier penalties for infringement; and (c) authorization for Taiwan Customs to take *ex officio* action.

Internet piracy and illegal peer-to-peer downloading are becoming serious concerns for IP enforcement in Taiwan. Infringers are using the Internet to market illegal goods and allowing the unauthorized downloading of music, movies, and software from Internet service providers. Efforts to use the legal system to shut down or restrict the activities of such services have met with limited success thus far.

In response to U.S. and industry requests to improve protection of optical media products and curtail the illegal manufacture of such goods, Taiwan passed an optical media law on October 31, 2001. Manufacturers must apply for production licenses and report any changes to the authorities. Violators face a maximum three-year jail sentence and a fine of approximately \$86,000. The law was fully implemented in May 2002. The Optical Media Law and IETF's night and day inspections have led to a dramatic decrease in large-scale factory production of counterfeit optical media products.

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The U.S. Government remains concerned with the growing incidence of counterfeit pharmaceutical products in the Taiwan market which create consumer health safety issues. The Taiwan government in March 2004 revised the pharmaceutical affairs law to increase penalties for pharmaceutical counterfeiting. Nevertheless, counterfeit products continue to be a threat to public health and Taiwan's DOH enforcement mechanism is not strong.

In January 2005, Taiwan's legislature approved a bill to provide data protection for pharmaceutical products, a TRIPS commitment and an incentive for innovative pharmaceutical manufacturers to introduce new products into the Taiwan market. The United States will monitor Taiwan's development of implementing regulations to ensure that commitments made by Taiwan regarding the period of protection are adequately codified.

Taiwan's judiciary continues to experience difficulties in handling technical cases, and U.S. industry has complained about long delays in court cases. Often conflicting or unclear lines of bureaucratic authority stymie IPR enforcement efforts. The United States continues to assist in remedying the weaknesses of the judicial system by holding seminars on criminal enforcement and encourages Taiwan to set up IP courts with experienced judges.

SERVICES BARRIERS

Financial Services

Taiwan continues to liberalize its financial market beyond its WTO accession commitments. In January 2001, the Securities and Futures Exchange Commission (SFEC) lifted the restriction on employment of foreigners by domestic securities firms. Also in January 2001, the SFEC removed the 50-percent foreign ownership limit on listed companies. In June 2003, the SFEC phased out a minimum two-year period for foreign holders of global depository receipts (GDRs) to exchange GDRs for equity stocks after a GDR is issued. In July 2003, the SFEC lifted the ceiling limit of \$3 billion on inward remittances by a qualified foreign institutional investor (QFII). It also abolished the requirement for a QFII to inwardly remit its investment fund within two years after it receives approval. In early October 2003, the Taiwan government voluntarily abolished the QFII system. Foreign portfolio investors are required to complete registration rather than seek advance approval, and in December 2003, the registration could be done through the Internet. In late 2003, Taiwan allowed foreign portfolio investors to trade in the futures and money markets as a part of financial management prior to actual portfolio investment. However, futures, money market funds and bank deposits are subject to a limit of 30 percent of total inward remittances. All offshore foreign portfolio investors may trade in Taiwan's stock market regardless of their size, except for investments in hedge funds and investors from the PRC. However, foreign individual investors are still subject to an investment limit. Onshore foreign individuals and institutional investors are also subject to annual inward/outward limits.

Taiwan continues to work towards fulfilling its May 1997 commitment to liberalize insurance premium rates and policy clauses. It voluntarily opened the reinsurance market. In November

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2001, Taiwan permitted life insurance companies to sell investment-linked products. Taiwan began to allow life insurance companies to set their own premium rates in January 2002 if the companies had their own actuaries to determine such rates. Taiwan adopted a three-stage premium rate liberalization program for non-life insurance. Effective January 1, 2002, insurance firms were allowed to set premium rates for large face-value fire insurance policies and fire insurance policies sold to multinational corporations. The target date for total liberalization is January 2008, but the liberalization date for an individual insurance firm can be advanced if it has a good credit reputation and its capital adequacy ratio reaches 300 percent.

Taiwan adopted a transparent approval procedure for insurance policies in January 2001. Prior approval is not required for products whose policy clauses are identical or very similar to existing products of other companies. New products are subject to prior approval. Taiwan's Insurance Bureau adopted a negative list system in January 2005. Under the new system, new products subject to prior approval will be deeply cut, down from 50 percent to 25 to 30 percent for life insurance and to 10 to 20 percent for non-life insurance. The processing time will be cut from 90 days to 75 days for life insurance and 60 days for non-life insurance. Taiwan's Department of Insurance (DOI) has allowed market access for Taiwan's reinsurance market, and the Central Reinsurance Corporation Statute was revoked in June 2004. The Central Reinsurance Corporation, the only reinsurance firm in Taiwan, was privatized in July 2002. In August 2002, the DOI lowered the capital requirement for entering the reinsurance market. In response to the liberalization, the Swiss Reinsurance Co. became the first foreign reinsurance firm to set up a branch in Taiwan in early 2004.

Telecommunications Services

Following the issuance of licenses to three fixed-line telecommunications service providers in 2000, the Directorate General of Telecommunications (DGT) again opened applications for integrated network licenses in September 2004. The capital requirement for integrated network services was reduced to NT\$16 billion from NT\$40 billion and system capacity requirements were lowered from one million to 400,000 subscribers' lines. However, during the September 2004 open season, there were no bidders for licenses to provide integrated network services. DGT also announced that it would allow licensing of services in March and September each year. According to DGT's plan, local, long-distance and international call businesses will be added to the licensing schedule under less restrictive conditions in March 2005. A new formula based on local population will be used to calculate the capital requirements for each of the new service licenses; for instance, NT\$1.2 billion may be required for a local call license in Taipei City and NT\$2 billion for long-distance and international service licenses. While an improvement, these requirements do not appear justified by any objective criteria.

Existing fixed-line operators still face serious difficulties in negotiating reasonable interconnection arrangements at technically feasible points in the network of the dominant carrier, Chunghwa Telecom (CHT). Despite its announcement in May 2004 to share the local loop with the three private providers, CHT set two limitations; non-CHT service providers access

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to CHT's local loop can only be initiated by end users and only voice service in three metropolitan areas is open to non-CHT operators. Taiwan's Premier announced in November 2003 that the government would invest a total of NT\$35 billion in the next five years to help local governments resolve "last mile" problems for telecommunications end-users. This plan, part of a number of telecommunications-related investment proposals called "Mobile Taiwan," will also include the construction of a second broadband network around Taiwan to be jointly used by telecommunications service companies. These new investment projects are expected to help break the monopoly of the telecommunications network by government-owned CHT. Taiwan's telecommunications regulatory body, DGT, and the state-owned former monopoly, CHT, are under the purview of the Ministry of Transportation and Communications, creating a potential conflict of interest. DGT lacks the full authority, independence, and resources to effectively resolve telecommunications-related disputes. Two draft laws, Communications and Broadcasting Basic Law and the statute for the organization of the proposed Cabinet-level National Communications and Broadcasting Commission (NCC), have been introduced by the Cabinet. The Basic Law was passed in December 2003 and the reorganizing statute is currently pending in the legislative process. The NCC will be an independent regulatory body that will unify regulatory authority now split between DGT for wired or wireless communications and the Government Information Office for radio and television broadcasting.

Taiwan's telecommunications market is transforming. In June 2003 the DGT announced regulations governing equal access service, allowing Type I subscribers to select the long distance and international network service of other providers. In August 2003 the DGT amended regulations to open Taiwan's mobile virtual network operator (MVNO) market and began licensing in September 2003. The MVNO market opening offers an alternative third-generation (3G) wireless service to local consumers and allows service providers to operate without a 3G license by partnering with existing 3G operators. Cellular carriers KG Telecom and Far EasTone merged in October 2003. The merger has created a mobile service market equally divided between FarEasTone, CHT and Taiwan Cellular. In November 2003 the DGT announced the regulations governing number portability service, enabling subscribers to retain their existing telephone numbers when switching from their original Type I enterprise to another Type I enterprise engaging in the same business. Actual implementation of the number portability service is likely to be postponed from January to December 2005 due to delays in completing a central database.

In November 2004 DGT began to solicit comments for a proposal to facilitate development in the voice over Internet protocol (VoIP) services. DGT plans to adopt a numbering plan and help safeguard the interconnectivity between VoIP providers and fixed-line operators as given by the Telecom Act, but has not finalized decisions regarding the interconnectivity between VoIP providers. A legislative amendment to the Telecom Act would be required for compulsory interconnectivity between VoIP providers. The United States continues to monitor Taiwan's progress in the telecommunications sector.

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INVESTMENT BARRIERS

Taiwan continues to relax investment restrictions in a host of areas, but foreign investment remains prohibited in a handful of industries such as agriculture, wireless broadcasting, oil exploration of Taiwan's coastal area, public utilities, and postal services. Foreign investors in the telecommunications sector are subject to a 60 percent ownership limit, with the limit on direct foreign investment raised from 20 percent to 49 percent in 2002. In February 2003, Taiwan lifted its ban on foreign investment in liquor production, although prior approval is required. Similarly, in January 2004, foreign investment restrictions on cigarette production were removed, although prior approval is required. The 50 percent foreign ownership limit on air cargo forwarders and air cargo terminals was eliminated when Taiwan became a WTO member. The limit on foreign ownership of power plants has been removed, while foreign investment in electricity transmission and distribution remains subject to a 50 percent ownership limit and approval by the Executive Yuan. In October 2003, Taiwan set a foreign ownership limit of 49 percent on high-speed railway transportation.

ANTICOMPETITIVE PRACTICES

In the cable TV market, U.S. program providers contend that the island's two dominant multi-system operators (MSOs) frequently collude to inhibit fair competition. Control by the two MSOs of upstream program distribution deterred U.S. program providers from negotiating reasonable program fees. In December 2003, Taiwan's legislature passed a new broadcasting law combining the Radio and Television Broadcasting Law, the Cable Television Broadcasting Law, and the Satellite Television Broadcasting Law. Following passage of the law, Taiwan officials are working to eliminate political interference in the television broadcasting industry by monitoring public releases of state-owned and party-owned stocks.

ELECTRONIC COMMERCE

Taiwan's approach to electronic commerce and related issues is still evolving. A law protecting personal on-line data was approved in 2001. The Electronic Signature Law, passed by the Legislative Yuan in late October 2001, adopts the principles of the United Nations Commission on International Trade Law's Model Law on Electronic Commerce and recognizes the legal validity of electronic contracts, records, and signatures. Still under discussion is a proposal to assess duties for software sold and downloaded over the Internet. If implemented, such a policy would appear to run counter to the Doha Declaration that WTO Members would maintain their current practice of not imposing customs duties on electronic transmissions. Taiwan has refused to join the United States at APEC in advocating for a permanent moratorium on taxation of Internet transactions.

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