HONG KONG

TRADE SUMMARY

U.S. goods exports in 2014 were $40.9 billion, down 3.5 percent from the previous year. Hong Kong is currently the 10th largest export market for U.S. goods. Corresponding U.S. imports from Hong Kong were $5.8 billion, up 1.9 percent. The U.S. goods trade surplus with Hong Kong was $35.1 billion in 2014, a decrease of $1.6 billion from 2013.

U.S. exports of services to Hong Kong were $9.1 billion in 2013 (latest data available), and U.S. imports were $7.2 billion. Sales of services in Hong Kong by majority U.S.-owned affiliates were $32.9 billion in 2012 (latest data available), while sales of services in the United States by majority Hong Kong-owned firms were $4.9 billion.

The stock of U.S. foreign direct investment (FDI) in Hong Kong was $58.8 billion in 2013 (latest data available), up from $54.9 billion in 2012. U.S. FDI in Hong Kong is led by the nonbank holding companies, and wholesale trade sectors.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Hong Kong implemented a positive pesticide maximum residue limit list regulation in August 2014. Food containing a pesticide not on the list will be prohibited from import or sale unless it is shown that consumption of the food would not be dangerous or prejudicial to health. The United States continues to work with the Hong Kong food safety authority to include additional U.S. approved pesticides on the list.

IMPORT POLICIES

Hong Kong is a special administrative region (SAR) of the People's Republic of China, and the Hong Kong Basic Law provides for a high degree of autonomy in all matters but defense and foreign affairs. For trade, customs, and immigration purposes, Hong Kong is an independent administrative entity with its own tariffs, trade laws, and regulations, and is a separate Member of both the WTO and APEC. The Hong Kong government pursues a market-oriented approach to commerce. Hong Kong is a duty-free port, with few barriers to trade in goods and services and few restrictions on foreign capital flows and investment.

COMPETITION POLICY

The Legislative Council passed Hong Kong's first comprehensive competition law in June 2012, after six years of public consultation and study. Broadly speaking, the new Competition Ordinance (Ordinance) addresses anticompetitive agreements and abuses of market power that prevent, restrict, or distort competition. The Ordinance includes additional prohibitions on certain mergers and acquisitions that could substantially lessen competition in Hong Kong. However, this merger and acquisition rule applies only to the telecommunications sector. The maximum penalties under the Ordinance are 10 percent of the company's turnover obtained in Hong Kong for each year of violation, up to a maximum of three years, and disqualification from direct or indirect involvement in the management of a company for up to five years. The law exempts 575 of Hong Kong's 581 statutory bodies from its coverage.

The government established a Competition Commission (Commission) and a Competition Tribunal (Tribunal) in 2013. The Commission is empowered to investigate anticompetitive conduct and promote public understanding of the value of competition. The Tribunal is in charge of hearing and adjudicating cases brought before it by the Commission after due investigation. In October 2014, the Commission launched a two-month public consultation on six draft regulatory guidelines under the Competition Ordinance. The Commission will submit the guidelines to the Legislative Council (LegCo) for discussions in early 2015, with the expectation that the Ordinance will come into full force in the third quarter of 2015. In November 2014, LegCo passed amendments to the Ordinance, empowering the Tribunal to prohibit persons from leaving Hong Kong and to award interest on debts and damages for which judgment is given.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Hong Kong provides robust intellectual property rights (IPR) protection and enforcement. Hong Kong has strong laws in place, a dedicated and effective enforcement capacity, a judicial system that supports enforcement efforts with deterrent fines and prison sentences, and youth education programs that discourage IPR-infringing activities. Hong Kong remains vulnerable, however, to some forms of IPR infringement, such as online copyright piracy facilitated by the rapid growth of unauthorized file sharing over peer-to-peer networks and end-user business software piracy.

Although the Hong Kong Customs and Excise Department (HKCED) routinely seizes IPR infringing products arriving from mainland China and elsewhere, stakeholders report that counterfeit pharmaceuticals, luxury goods, and other infringing products continue to enter Hong Kong, destined for both the local market and places outside of Hong Kong. During the period between February and April 2014, HKCED carried out a special operation targeting the sale of counterfeit and infringing goods on the Internet. Customs officers arrested 45 people, and seized 11,796 counterfeit and infringing goods, including handbags, clothing, sunglasses, shoes, and socks. Between January and November 2014, HKCED seized 63,000 infringing products (worth $0.77 million) – such as electronic goods, clothing, leather goods and pirated optical discs. Most of the seized goods were destined for the United States and European countries. In June 2014, HKCED arrested nine people in a ground-breaking raid to curb the distribution of TV set-top boxes used to circumvent digital copyright.

In June 2012, the Legislative Council shelved a bill to amend the 1997 Copyright Ordinance, after lengthy debate. The government drafted proposed amendments in 2010 and introduced to the Legislative Council in June 2011, after industry groups failed to reach agreement on a voluntary framework to address online infringement. At the time, the government said it was shelving the bill to concentrate on passing urgent social and livelihood-related bills before the legislative session ended in July 2012. In addition, there was concern that the bill did not adequately protect parody. In November 2013, the Hong Kong government completed a four month public consultation on a copyright exception for parody. In June 2014, the Hong Kong government introduced the digital copyright bill in LegCo for first and second readings. The new bill has proposed to give exemptions from criminal and civil liabilities for parody, satire, caricature, pastiche, quotation, and comment on current events. While a Bills Committee of LegCo is scrutinizing the bill, it is expected that LegCo will hold a vote on it in mid-2015.

In February 2011, the government initiated a dialogue to elicit views from the public on whether to create an original patent grant system in Hong Kong to replace the re-registration system based on patents granted in the United Kingdom, the EU, and mainland China. Public consultations concluded in December 2011. In February 2013, the government announced three measures to further development of the Hong Kong patent system: (1) introducing an original grant patent system with examination supported by China’s State Intellectual Property Office, while maintaining the current re-registration system; (2) retaining the short-term patent system with refinements; and (3) developing, over a longer term, a regulatory regime on patent agency services. The Intellectual Property Department is working on an implementation plan for the new system, which is expected to come into force sometime in 2016 or 2017. In November 2014, a working group on IP trading consisting of government representatives and stakeholders completed its study on promoting Hong Kong as a regional IP trading hub. The working group submitted its recommendations to the Hong Kong government in March 2015.

OTHER MEASURES

The Hong Kong government published a draft *Code of Marketing and Quality of Formula Milk and Related Products and Food Products for Infants & Young Children* in October 2012. The Code provides that manufacturers and distributors not market infant formula (for example, through advertising) and limit marketing of other non-formula complementary food products intended for Hong Kong-based infants and young children up to 36 months of age. We are continuing to engage with the Hong Kong government on this measure, including with respect to whether it is more restrictive than relevant international standards.