HONG KONG, SAR

TRADE SUMMARY

The U.S. goods trade surplus with Hong Kong was $22.3 billion in 2010, an increase of $4.8 billion from 2009. U.S. goods exports in 2010 were $26.6 billion, up 26.2 percent from the previous year. Corresponding U.S. imports from Hong Kong were $4.3 billion, up 20.5 percent. Hong Kong is currently the 12th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.,* excluding military and government) to Hong Kong were $6.0 billion in 2009 (latest data available), and U.S. imports were $6.9 billion. Sales of services in Hong Kong by majority U.S.-owned affiliates were $27.1 billion in 2008 (latest data available), while sales of services in the United States by majority Hong Kong-owned firms were $4.1 billion.

The stock of U.S. foreign direct investment (FDI) in Hong Kong was $50.5 billion in 2009 (latest data available), up from $40.0 billion in 2008. U.S. FDI in Hong Kong is primarily concentrated in the finance/insurance, nonbank holding companies, and wholesale trade sectors.

IMPORT POLICIES

Hong Kong, China is a special administrative region (SAR) of the People's Republic of China. However, for trade and immigration purposes, Hong Kong is a distinct entity with its own tariffs, trade laws and regulations, and its own seat at the WTO. 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. Hong Kong had traditionally maintained excise taxes on certain goods, particularly alcoholic beverages, which were among the highest in the world. However, on February 27, 2008, the Hong Kong Financial Secretary announced that the 40 percent excise tax on wine and the 20 percent excise tax on beer and liquor containing less than 30 percent alcohol would be eliminated immediately. The U.S. Government is engaged in a dialogue to work with like-minded governments to encourage Hong Kong to eliminate the remaining 100 percent tax on spirits (more than 30 percent alcohol content).

COMPETITION POLICY

Hong Kong does not have a comprehensive competition law, although individual regulatory regimes exist for certain sectors. In late 2006, the Hong Kong government established an independent Competition Policy Review Committee to discuss the need, scope, and application of a comprehensive and cross-sector law. Small- and medium-sized enterprises (SMEs) in Hong Kong have expressed strong opposition to the creation of such a law, since it provides for private actions to be brought by persons who have suffered loss or damage (*i.e.,* private enforcement). Some SMEs have expressed concerns that private enforcement will open SMEs to possible harassment by larger companies, and that the law may undermine their flexibility to do business and could increase operating costs. Likewise, the law has been opposed by the large conglomerates that dominate certain sectors of Hong Kong's economy. In May 2008, the Hong Kong government presented the elements of its proposed competition legislation for public discussion and scrutiny. Following closure of the public comment period in August 2008, the Hong Kong government introduced the bill to the Legislative Council in July 2010. The draft law is primarily aimed at eliminating cartel behavior and abuses of dominant market position. Notably, the threshold for presumption of a dominant market position is set quite low, at 40 percent market share. Critics of the bill note that it does not contain provisions dealing with merger control and that it will not apply to government or statutory bodies such as the Hospital Authority and Housing Authority. For the time being, mergers and acquisitions rules will apply only to the telecommunications sector until the government determines that it is appropriate to broaden the scope of the rules. A Bills Committee on the Competition Bill was formed in October 2010 to analyze the draft. The Bills Committee will continue to meet through April 2012, after which time the Legislative Council may resume debate of the bill, propose amendments and vote on the final draft.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

The Hong Kong government generally provides robust 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 on-line copyright piracy, including the rapid growth of unauthorized file sharing over peer-to-peer (P2P) networks and end-user business software piracy. Due to the failure of internet service providers and IP rights holder to reach an agreement on a voluntary framework to address on-line infringements, the Hong Kong government restarted its efforts to draft digital IPR protection amendments to the Copyright Ordinance. The Hong Kong government expects to introduce the amendments into the Legislative Council in the 2010-2011 legislative session.

Although Hong Kong Customs routinely seizes IPR infringing products arriving from mainland China and elsewhere, stakeholders report that large quantities of counterfeit pharmaceuticals, luxury goods, and other infringing products continue to enter Hong Kong, destined for both the local market and transshipment to third-party countries. The U.S. Government continues to monitor the situation to ensure that Hong Kong sustains its IPR protection and enforcement efforts and addresses remaining problem areas.

SERVICES BARRIERS

Foreign law firms may practice foreign law in Hong Kong. Foreign law firms that also wish to provide Hong Kong legal services may establish a local Hong Kong practice. The partners of the Hong Kong practice must all be Hong Kong-qualified solicitors, and the number of registered foreign lawyers employed by the Hong Kong practice may not exceed the number of Hong Kong solicitors employed by the Hong Kong firm. Such Hong Kong firms may be associated with, or be branches of, overseas law firms if they meet certain criteria (*e.g.*, at least one partner of the Hong Kong firm must also be a partner in the overseas firm).

STANDARDS, TESTING, LABELING, AND CERTIFICATION

U.S. industry has expressed concerns about lengthy approval procedures for new pharmaceuticals and the lack of transparency in the Hong Kong Hospital Authority's approval process for new drugs which inhibit their ability to market their products on a timely basis.