TAIWAN

TRADE SUMMARY

The U.S. goods trade deficit with Taiwan was $9.9 billion in 2010, up $3 million from 2009. U.S. goods exports in 2010 were $26.0 billion, up 40.8 percent from the previous year. Corresponding U.S. imports from Taiwan were $35.9 billion, up 26.6 percent. Taiwan is currently the 13th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e*., excluding military and government) to Taiwan were $6.5 billion in 2009 (latest data available), and U.S. imports were $5.1 billion. Sales of services in Taiwan by majority U.S.-owned affiliates were $10.7 billion in 2008 (latest data available), while sales of services in the United States by majority Taiwan-owned firms were $2.2 billion.

The stock of U.S. foreign direct investment (FDI) in Taiwan was $19.5 billion in 2009 (latest data available), up from $18.1 billion in 2008. U.S. FDI in Taiwan is mostly in the finance/insurance, manufacturing, and wholesale trade sectors.

In June 2010, Taiwan and the People's Republic of China (PRC) signed the Economic Cooperation Framework Agreement (ECFA), a landmark trade agreement that Taiwan authorities anticipate will contribute to domestic economic growth and assist Taiwan's efforts to conclude trade agreements with other countries. The ECFA entered into force on January 1, 2011. WTO Members are required to notify any bilateral or regional trade agreement to the WTO upon entry into force of the agreement. As of December 31, 2010, the ECFA had not yet been notified.

IMPORT POLICIES

Tariffs

When Taiwan became a WTO Member in January 2002, the authorities implemented tariff-rate quotas (TRQs) on small passenger cars, three categories of fish and fish products, and a number of agricultural products. On January 1, 2007, in accordance with its WTO commitments, Taiwan made additional tariff cuts and increased TRQ amounts on these products. For example, the commodity tax on small passenger cars dropped from 35 percent to 30 percent (which is waived for electrical cars until 2014 in an effort to promote energy conservation). Beginning January 2011, Taiwan fully eliminated TRQs on small passenger cars. Taiwan maintains Special Safeguards (SSGs) for a number of agricultural products covered by TRQs. SSGs, which are generally permitted under Article 5 of the WTO Agreement on Agriculture, allow Taiwan to impose additional duties when import quantities exceed SSG trigger volumes or import prices fall below SSG trigger prices. Because Taiwan previously did not import many of these products, SSG trigger volumes are relatively low. Over the last few years, Taiwan has imposed SSG provisions on poultry imports and other products, including types of offal.

U.S. industry continues to request that Taiwan lower tariffs on many goods, including large motorcycles, wine, canned soups, cookies (sweet biscuits), snack foods, vegetable juices, potato and potato products, and various fruits and vegetables.

Import Controls

Taiwan has eliminated more than 99 percent of its import controls, but 107 product categories still face import restrictions, up from 71 product categories in 2008. Of these 107 categories, 21 require import permits from the Board of Foreign Trade, and 86 categories are prohibited. Most of the requirements reportedly are based on public health and national defense concerns.

The Economic Cooperation Framework Agreement includes early harvest lists of 267 goods permitted to enter Taiwan from the PRC with tariff reductions and exemptions. The early harvest lists will be phased in over three years starting on January 1, 2011, with the goal of eliminating tariffs on all of the 267 items at the end of the three-year period. Taiwan still retains import bans on more than 2,000 products from the PRC.

Agriculture and Fish Products

Prior to joining the WTO, Taiwan banned or restricted imports of 42 agricultural and fish items. In January 2002, Taiwan eliminated restrictions on the importation of 18 of these categories and implemented tariff rate quotas (TRQs) on the remaining 24 items. In October 2002, market access for rice was changed from a minimum market access regime to a TRQ. On January 1, 2005, Taiwan eliminated TRQs on four products of interest to the United States, including chicken meat, poultry offal, and pork bellies and offal. In February 2005, Taiwan unilaterally eliminated sugar from its TRQ. At the end of 2007, Taiwan phased out TRQs for persimmon, mackerel, carangid, and sardines. Currently, 16 agricultural products are subject to TRQs.

Beef

Taiwan maintains unwarranted SPS measures that continue to serve as market access barriers to U.S. beef and beef product exports. Reopening Taiwan's beef market consistent with international science-based standards as well as in a commercially viable manner is an important priority. This issue is discussed in detail in USTR's annual Report on Sanitary and Phytosanitary Measures.

Rice

Upon accession to the WTO in 2002, Taiwan committed to lift the ban on rice importation and opened up an import quota of 144,720 metric tons on a brown rice basis under a "special treatment" regime. Starting in 2003, Taiwan shifted its rice importation from a special treatment regime to a complex TRQ system that includes a ceiling price mechanism. After the United States and other WTO members raised objections to Taiwan's method of quota allocation, Taiwan subsequently agreed that its public sector import quota would be allocated based on a country-specific quota (CSQ) regime, with the U.S. quota accounting for the largest share at 64,634 metric tons -- valued at approximately $50 million (based on trade flow estimates) at current world prices.

The United States continues to engage Taiwan on issues relating to fulfilling its CSQ for importation of U.S. rice. Since 2007, U.S. exporters have raised concerns that Taiwan's ceiling price mechanism has disrupted Taiwan's tendering process for procurement of U.S. rice. The ceiling price is not public, but in recent years it is believed to have been set lower than the price levels bid by U.S. exporters, causing tenders to fail. In 2007 and 2008, public sector rice tenders for U.S. rice repeatedly failed. Throughout 2009 and 2010, the United States worked with Taiwan to seek improvements to the rice import system and to address the shortfalls in Taiwan's procurement of U.S. rice. As a result of these efforts, it appeared that Taiwan attempted to fill all country-specific tenders in 2009, but in 2010, Taiwan fell substantially short of meeting its rice purchase obligations and issues with the ceiling price mechanism continue.

Wood Products

The issue of counterfeit U.S. industry-associated wood certification stamps noted in the 2010 National Trade Estimate has largely been resolved through an education campaign conducted by importers of U.S. wood products to familiarize local builders and architects with legitimate certification stamps. The U.S. wood industry also plans to establish an association office in Taiwan in 2011, which will allow for even closer monitoring of this issue. Revisions to Taiwan's building and fire codes in 2008 resolved outstanding issues for general construction lumber, improving market access for U.S. exports. With regard to heavy timber, however, the United States continues to engage with Taiwan authorities to encourage adoption of fire codes consistent with those in the United States.

Automobiles and Motorcycles

Although the Ministry of Transportation and Communications (MOTC) opened most expressways to large motorcycles with engine displacement of 550cc or more in 2007, the MOTC subsequently asked the Directorate General of Highways (DGH) in 2009 to study further the feasibility of opening highways to those motorcycles. Following completion of the study, the MOTC concluded that opening highways to large motorcycles would not be appropriate. MOTC continues to restrict motorcycles with engine displacement of over 550 cc from Taiwan's highways.

Distilled Spirits

Differential taxation for domestic and imported distilled spirits has been a contentious issue between Taiwan and a number of its important trading partners in the past, and it was the subject of careful negotiations during Taiwan's WTO accession process. Actions taken by Taiwan in 2010 have again raised concerns for the United States and other trading partners, including the European Union.

Specifically, on September 16, 2010, Taiwan implemented a significant tax reduction on domestic mijiu rice wine. This tax reduction resulted from the amendment of Taiwan's "Enforcement Rules of the Tobacco and Alcohol Administration Act" which created a new subcategory of "cooking rice wine" that covers mijiumijiu rice wine, a domestically-produced distilled spirit. Prior to this amendment, the enforcement rules contained a provision requiring that "cooking alcoholic products" contain a minimum salt content of more than 0.5 percent of total volume, ensuring that such products would be distinguished from other distilled spirits and not consumed as a beverage. The 2010 amendment removed the salt content requirement, requiring instead that the alcohol content of "cooking alcoholic products" be no greater than 20 percent and that such products be labeled "exclusively used for cooking." As a result of the amendment, mijiu rice wine is now taxed at NT$9 per liter, the much lower rate applied to cooking alcoholic products, instead of at the much higher rate applicable to all other distilled spirits (NT$2.5 per liter per degree (percentage) of alcohol content).

The United States and other trading partners continue to express their strong concerns to the Taiwan authorities that steps should be taken to ensure that the domestic *mijiu* rice wine will not compete with, or substitute for, like imported alcoholic beverages, and that imported alcoholic beverages would not be taxed at a higher rate than like domestically produced alcoholic beverages.

EXPORT SUBSIDIES

Taiwan provides incentives to industrial firms in export processing zones and to firms in designated "emerging industries." Taiwan has notified the WTO of these programs.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Taiwan generally provides strong IPR protection and enforcement.

However, rights holders continue to express concern regarding: infringement of copyrighted material on the Internet; illegal textbook copying on and around university campuses; inadequate protection for the packaging, configuration, and outward appearance of products (trade dress); and the continued availability of counterfeit pharmaceuticals in Taiwan. The importation and transshipment of counterfeit products from China is also a problem, as well as the collusion of some Taiwan companies in supplying components to mainland factories producing "Shanzhai" counterfeits (*e.g.* mobile phones, netbooks, and other electronic devices). Taiwan also needs to provide an effective system to address patent issues expeditiously in connection with applications to market pharmaceutical products.

Piracy on the Internet remains a serious IP enforcement concern in Taiwan. In April 2009, the Legislative Yuan amended the Taiwan Copyright Law to require Internet service providers (ISP) to undertake specific and effective notice-and-takedown actions against online infringers to avoid liability for the infringing activities of users on their networks. Rights holders expect to reach agreement on a "code of conduct" with ISP operators for implementation of the new ISP law regulation.

In January 2010, the Legislative Yuan passed an amendment to the Copyright Collective Management Organization Act and an amendment to article 37 of the Copyright Law. Copyright collection groups complained that both amendments, which require a single portal and a joint tariff rate for fee collection, and exempt secondary public broadcasting users from criminal liability, weaken copyright owners' ability to collect remuneration for the use of their works.

Pharmaceuticals

Taiwan formally established the Taiwan Food and Drug Administration (TFDA) on January 1, 2010 to replace the Bureau of Pharmaceutical Affairs (BOPA). The TFDA combines into one office agencies responsible for food and drug policy, license issuing, and product testing. The new configuration will potentially consolidate and speed up approval procedures. TFDA continues to work cooperatively with U.S. industry in revising registration procedures (*e.g.*, reducing the required number of Certificates of Pharmaceutical Products (CPPs) to one), and facilitating the entry of new products into Taiwan's market.

However, the U.S. pharmaceutical industry continues to express concern that measures related to pricing and reimbursement inadequately take into account the value of innovative products and adversely affect patients' ability to access new pharmaceutical products. For instance, in Taiwan, hospitals derive significant revenue from the difference between the prices they negotiate with drug companies and the higher amounts that the Bureau of National Health Insurance (BNHI) reimburses for the same drugs. To close the gap, BNHI uses the Price Volume Survey (PVS) to collect "market" price data from hospitals and drug makers for calculating new, lower drug reimbursements. The hospitals, in turn, re-negotiate contracts with drug companies after each PVS, driving prices down further while perpetuating the reimbursement gap at lower price levels. The process threatens to drive foreign pharmaceutical firms out of Taiwan's market as their profit margins dwindle through each successive PVS cycle. The pharmaceutical industry has indicated that it is encouraged by recently passed legislation that will implement a Drug Expenditure Target approach that could improve the transparency and predictability of pricing and reimbursement in the market. The United States encourages Taiwan to continue to consult with relevant stakeholders in implementing policies that will facilitate the private sector's development of innovative products and improve patients' access to such products.

Medical Devices

The medical device industry has expressed concern regarding pricing policies that currently specify a single purchase price for all medical devices that treat the same indication. This policy does not take into account difference in quality and effectively subsidizes lower-cost devices while underpaying for high-tech, higher quality devices, discouraging the introduction of these devices into the Taiwan market.

Department of Health (DOH) officials continue to work with industry to improve the medical device registration process, particularly concerning identical products made at manufacturing sites with different quality-system documentation, or with small modifications, such as outer packaging changes.

SERVICES BARRIERS

Banking Services

Foreign banks may set up representative offices, branches, and subsidiaries in Taiwan. Foreign-invested banks in Taiwan are accorded national treatment. Foreign entities may acquire up to 100 percent equity in Taiwan banks, subject to certain requirements.

Securities Services

Foreign securities firms may set up representative offices, branches, and subsidiaries, and Taiwan securities firms are not subject to any foreign ownership limit. In general, asset management business requires a securities investment trust enterprise (SITE) license and/or securities investment consultant enterprise (SICE) license. Both SITEs and SICEs are allowed to raise and sell offshore funds, or a fund established outside of Taiwan. Neither SITEs nor SICEs are subject to any foreign ownership limit.

Insurance Services

Taiwan allows foreign insurance firms to set up representative offices, branches, and subsidiaries. Taiwan also allows foreign insurance firms to merge with or acquire local companies. Foreign insurance firms in Taiwan may engage in life, non-life, and re-insurance businesses.

Healthcare Services

All healthcare services in Taiwan must be provided by non-profit organizations. The number of foreign persons permitted to serve on the board of directors of a healthcare service provider is limited to no more than one-third of the total members. In addition, one-third of the board members must have professional medical qualifications.

Taiwan does not license or recognize chiropractors as legitimate medical practitioners, and allows chiropractors to practice in Taiwan only if they do not advertise their services and make no claims about the results or efficacy of treatments.

Taiwan first started the national health insurance program in 1995 based on the National Health Insurance Act (NHIA). In order to improve the healthcare system for a better healthcare operation environment and service, the Legislative Yuan amended the NHIA in December 2010, to include several important concepts that are of interest to industry, including the drug expenditure target (DET), and the health technology assessment (HTA). The new NHIA would be implemented in 2012 following public hearings to discuss implementation rules regarding DET, HTA, and price adjustment mechanisms.

Pay Television Services

The Cable Radio and Television Law restricts foreign investment in pay television services to a total equity share of 20 percent for direct investment, or 60 percent for direct plus indirect investment. In addition, continuing caps on monthly cable television fees are overly restrictive, hampering the Taiwan public's access to a broader range of programming. The fees may also reduce the cable industry's incentives to invest in expensive digitalization of Taiwan's largely analog cable system.

Telecommunications Services

The National Communications Commission (NCC) is an independent agency modeled after the U.S. Federal Communications Commission which regulates Taiwan's telecommunications and broadcasting sectors, and supports the development of these industries. In 2008, the NCC began accepting and reviewing license applications when submitted, rather than on a quarterly basis. In addition to completing NT$35 billion ($1.1 billion) of new broadband network construction ongoing since 2003, the NCC in July 2007 issued six regional licenses to Worldwide Interoperability for Microwave Access (WiMax) operators. Three WiMax operators began services in 2009 . A total of six are in operation as of 2010, a situation that will help break the dominance of the telecommunications network by Chunghwa Telecom (CHT),the legacy carrier still partially owned by the Ministry of Transportation and Communications and Taiwan's largest telecommunications firm with approximately half of the market.

Despite these advances, the agency has been criticized for demanding that service suppliers reduce fees, causing a decrease in infrastructure investment by firms. NCC has been ineffective in integrating telecommunications and broadcasting regulations, causing Taiwan's telecommunications industry to fall behind in an era of digital convergence. For example, current regulations prevent Taiwan's principal fixed-line phone company, CHT, from running multimedia-on-demand (MOD) programs, and restrict another primary mobile phone operator, Taiwan Mobile Co., from acquiring a cable television multi-system operator. In addition, existing fixed-line operators report that they still face difficulties in negotiating reasonable interconnection arrangements at technically feasible points in the network of the dominant carrier, CHT.

INVESTMENT BARRIERS

Taiwan prohibits or restricts foreign investment in certain sectors, including agricultural production, chemical manufacturing, bus transportation, and public utilities. National treatment has recently been accorded in the postal services and pesticide production sectors. Since 2004, Taiwan has allowed private production of cigarettes without any foreign ownership limit, although prior official approval is required. Shipping companies registered in Taiwan are subject to a foreign ownership limit of 50 percent. Foreign ownership in Taiwan-registered merchant ships is limited to a 50 percent stake for ships engaged in international shipping, and to a 33 percent stake for those involved in domestic shipping, including shipping to the PRC.

The total direct and indirect foreign ownership limit on wireless and wire line telecommunications firms is 60 percent, including a direct foreign investment limit of 49 percent. Separate rules exist for CHT, the legacy carrier still partially owned by the Ministry of Transportation and Communications. CHT controls 97 percent of the fixed-line telecommunications market. For CHT, the cap on direct and indirect investment was raised to 55 percent in December 2007, including a direct investment limit of 49 percent. The total direct and indirect foreign ownership limit on cable television broadcasting services is 60 percent, which includes a 20 percent limit on foreign direct investment.

Foreign ownership in satellite television broadcasting services, power transmission and distribution, piped distribution of natural gas, high speed railways, airport ground handling firms, air cargo terminals, air catering companies, and air cargo forwarders is limited to 49 percent of the total shares issued. In July 2007, the foreign ownership limit on airline companies was raised from 33 percent to 49.99 percent, with each individual foreign investor subject to an ownership limit of 25 percent.

Portfolio Investment

Foreign portfolio investors are required to register and they can do so via the Internet. Up to 30 percent of funds remitted for purposes of portfolio investment may be held in money market or other similar instruments. Funds for futures trading, however, must be remitted to Taiwan specifically for that purpose and are segregated from funds remitted for equity investment. In 2007, Taiwan set a cap of NT$300 million (approximately US$9.2 million) on the balance of a foreign investor's NT$ omnibus account resulting from profits gained from futures trading in Taiwan. If the balance exceeds the limit, the foreign investor is required to convert the NT dollars into U.S. dollars, with the new balance below US$10 million. Except for investors from the PRC, offshore foreign portfolio investors may trade in Taiwan's stock market regardless of their size.

Since April 2009, Taiwan has allowed PRC-based qualified domestic institutional investors to engage in portfolio investment and futures trading in Taiwan. China investors may invest in the following Taiwan securities: shares of listed companies, beneficial certificates, public sector bonds, financial bonds, corporate bonds issued by public companies, asset-backed securities, and call warrants. A PRC-based institutional investor that engages in futures trading can only do so using foreign currencies.

Foreign hedge funds have been permitted to trade in Taiwan's stock market since 2003, but they are subject to Taiwan authorities' close surveillance. Foreign individual investors are subject to an investment limit. Onshore foreign individuals and institutional investors are also subject to annual inward/outward limits of $5 million and $50 million, respectively.