# TAIWAN

## TRADE SUMMARY

The U.S. goods trade deficit with Taiwan was $14.5 billion in 2012, down $1.0 billion from 2011. U.S. goods exports in 2012 were $24.4 billion, down 5.9 percent from the previous year. Corresponding U.S. imports from Taiwan were $38.9 billion, down 6.1 percent. Taiwan is currently the 16th largest export market for U.S. goods.

U.S. exports of private commercial services (i.e., excluding military and government) to Taiwan were $10.4 billion in 2011 (latest data available), and U.S. imports were $6.8 billion. Sales of services in Taiwan by majority U.S.-owned affiliates were $9.5 billion in 2010 (latest data available), while sales of services in the United States by majority Taiwan-owned firms were not $2.0 billion.

The stock of U.S. foreign direct investment (FDI) in Taiwan was $15.8 billion in 2011 (latest data available), down from $21.8 billion in 2010. U.S. FDI in Taiwan is mostly in the manufacturing, wholesale trade, and finance/insurance sectors.

## IMPORT POLICIES

### Tariffs

When Taiwan became a WTO Member in January 2002, the authorities implemented tariff-rate quotas (TRQs) on small passenger cars and 24 agricultural products. Taiwan subsequently eliminated TRQs for 8 agricultural items and currently, 16 agricultural products are subject to TRQs. On January 1, 2007, in accordance with its WTO commitments, Taiwan made additional tariff cuts and increased TRQ amounts on the remaining products. Beginning in January 2011, Taiwan fully eliminated TRQs on small passenger cars. In addition, the commodity tax on small passenger cars dropped from 35 percent to 30 percent. This tax is waived for electric cars until 2014 in an effort to promote energy conservation.

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 applied SSG provisions in several agricultural product categories, including poultry meat, certain types of offal, and milk.

U.S. industry continues to request that Taiwan lower tariffs on many goods, including large motorcycles.

### Import Controls

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 were implemented in three stages that achieved the goal of eliminating tariffs on all of the 267 items as of January 1, 2013. Taiwan still retains import bans on approximately 2,000 products from the PRC.

## Agriculture and Fish Products

*Beef and Pork*

Despite administrative measures implemented in September 2012 that led to improved market access for U.S. beef, the United States remains concerned about Taiwan's other trade practices affecting U.S. meat exports, including beef offal and pork. For details, please see the 2013 USTR Report on Sanitary and Phytosanitary Barriers.

*Rice*

Upon accession to the WTO in 2002, Taiwan committed to lifting the ban on rice imports and opened up an import quota of 144,720 metric tons (MT) on a brown rice basis under a "special treatment" regime. Taiwan's annual WTO TRQ is divided into two portions - 35 percent or 50,652 MT for private sector imports and 65 percent or 94,068 MT for public sector imports. The amount allocated to public sector imports is divided by both country of origin and tender type (i.e., the simultaneous buy-sell [SBS] scheme and normal tenders.)

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 quota allocation, Taiwan subsequently agreed that its 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 $45 million at current world prices.

In 2007 and 2008, Taiwan rejected all bids for U.S. rice under Taiwan's WTO CSQ, arguing that high U.S. bids had exceeded Taiwan's ceiling price. The United States has continued to urge Taiwan to fill the 2007 and 2008 shortfalls (approximately 80,000 metric tons on a brown rice basis). However, since 2009, Taiwan has fully met its obligations for purchase of U.S. rice.

The United States remains concerned about the 2012 decision by Taiwan authorities to unilaterally shift a larger percentage of the U.S. CSQ to SBS tenders, though Taiwan filled its quota in 2012. Since the SBS places bear all costs of importing, storing and distributing the rice on private importers, relatively low default penalties create a situation where successful bidders could simply walk away from a purchase for any reason, leaving the quota unfilled. The United States continues to engage Taiwan on these issues and reiterates that Taiwan has a commitment to fill its quota.

## 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 has not allowed motorcycles with engine displacement of over 550cc on the highways based on the results of a feasibility study made by Directorate General of Highways (DGH) in 2009. The Legislative Yuan on November 8, 2011 passed an amendment to the "road traffic management and penalty act" which would allow motorcycles with engine displacement over 550cc to travel on highways during specific time periods and on certain road segments as determined by local authorities. MOTC has not yet approved any section of highway for 550cc or larger motorcycles.

Industry has raised concerns over emissions and fuel-consumption standards imposed on automobiles and motorcycles. On automobiles, this includes Environmental Protection Administration diesel auto emissions testing methods and procedures that are based on the Japanese model with reference to European Union (EU) models. The Taiwan Environmental Protection Agency plans to simplify testing methods and will announce new procedures later in 2013. The motorcycle industry has also raised concerns with Taiwan authorities about proposed stricter emissions standards currently under review, which would require emissions certificates for each motorcycle sold.

### 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 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 Tax Act” which created a new subcategory of “cooking rice wine” that covers mijiu rice wine, a domestically produced distilled spirit. Prior to this amendment, the enforcement rules required that “cooking alcoholic products” must 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 categorized cooking wine into two subgroups, one group with a salt content requirement, and the other under “cooking alcoholic products” for products with alcohol content no greater than 20 percent, labeled “exclusively used for cooking.” Based on these specifications, mijiu rice wine under these categories is taxed at NT$9 ($0.30) per liter, a much lower tax rate than what is applied to non-cooking alcoholic products, NT$2.5 ($0.08) 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. The Ministry of Finance in October 2011 resumed tax rebates for customs duties on certain components and raw materials that are imported into Taiwan and then used to produce goods for export. The rebate applies to 1,269 products in categories including electronics, textiles, machinery, chemicals, and plastics.

## INTELLECTUAL PROPERTY RIGHTS PROTECTION

Taiwan generally provides effective intellectual property rights (IPR) protection and enforcement. Rights-holders continue to express concern, however, regarding infringement of copyrighted material on the Internet, illegal textbook copying on university campuses and nearby businesses, inadequate protection for the packaging, configuration, and outward appearance of products (trade dress), end-user piracy of software, signal theft of cable television, trade secret theft and misappropriation, and the continued availability of counterfeit pharmaceuticals in Taiwan. The importation and trans-shipment of counterfeit products and online copyright infringement and file sharing are also problems, as well as the collusion of some Taiwanese companies in supplying components to factories in China producing “Shanzhai” counterfeits (e.g., mobile phones, netbooks, and other electronic devices) and the transfer of proprietary technology by company employees to mainland businesses. The United States also continues to encourage Taiwan to provide an effective system to address patent-related issues expeditiously in connection with applications to market pharmaceutical products.

The Legislative Yuan amended the Taiwan Copyright Law in 2009 to require Internet service providers (ISPs) to undertake specific and effective notice-and-takedown actions against online infringers to avoid liability for the infringing activities of users on their networks. The law's provisions, however, failed to indicate clearly what constituted an infringement, how notifications should be handled, and other procedural matters. Rights-holders and ISPs, despite extensive negotiations, have not yet reached consensus on how to implement the law effectively.

In May 2011, the Legislative Yuan passed an amendment to the Trademark Law which extends the scope of goods eligible for protection as trademarks, broadens the conditions for which infringement is deemed to have occurred, and strengthens customs enforcement mechanisms for trademarked goods. The amendment to the law took effect on July 1, 2012.

Over the past several years, there have been a number of high profile cases of serious theft of trade secrets which have raised questions about the effectiveness of Taiwan’s industrial espionage laws. In order to address these concerns, on January 11, 2013, Taiwan’s Legislative Yuan passed an amendment to Taiwan's Trade Secrets Act significantly increasing the criminal and civil penalties for corporate intellectual property theft, including up to 10 years imprisonment for trade secrets stolen and transferred to other countries. The United States will review the provisions and monitor implementation of the law as amended, and will engage Taiwan authorities as required.

## SERVICES BARRIERS

### Banking Services

In some cases, financial regulators have required foreign banks to convert their branch operations to subsidiaries. These types of requirements limit a financial institution’s choice of juridical form. In addition, foreign banks continue to be concerned with requirements to establish onshore data centers.

### 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 and previous limitations that prevented cable franchises from servicing more than one district have hampered the Taiwan public's access to a broader range and higher quality of programming. These relatively low subscriber fees and franchise restrictions have reduced the cable industry's incentives to invest in expensive digitalization of Taiwan's largely analog cable system, which is more susceptible to signal theft.

The National Communications Commission (NCC) announced in July 2012 relaxed restrictions on cable television operators, which permitted new cable television operators to enter the market. Taiwan is divided into 51 cable television districts serviced by 63 cable operators. Prior to July 2012, operators could only service a single district. Since July, however, operators have been permitted to expand to additional districts under certain conditions, including the requirement to provide digital cable. Firms new to Taiwan's market are also required to provide at least $6.8 million in capital investment. At the end of September 2012, Taiwan's cable digital television (DTV) penetration rate was 18.16 percent, but 100 percent of Taiwan’s cable subscribers will receive digital service by 2014 under the new policy.

### Telecommunications Services

The National Communications Commission (NCC) is an independent agency modeled after the U.S Federal Communications Commission. It 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 authorizing NT$35 billion (approximately $1.1 billion) of broadband network construction that has been ongoing since 2003, the NCC in July 2007 issued 6 regional licenses to Worldwide Interoperability for Microwave Access (WiMax) operators. WiMax operators began services in 2009, but immediately faced operational difficulties because of low consumer interest, with consumers reluctant to switch from existing 3G and 2G services. Furthermore, WiMax technology now faces a strong challenge from the competing 4G wireless data standard, Long Term Evolution. As a result, Taiwan's six WiMax operators had only 136,000 users by the end of September 2012. Taiwan's WiMax operators are merging and plan to upgrade their technology to the competing 4G standard, Time-Division Long-Term Evolution (TD-LTE).

The 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, Chunghwa Telecom (CHT), from running multimedia-on-demand programs. 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, Chunghwa Telecom (CHT).

To enhance efficiency in decision making and administration, the Legislative Yuan passed an amendment to the NCC Organization Act in December 2011, which authorized and subsequently led to the appointment of Chairman and Vice Chairman positions in the NCC in July 2012. Goals under the reformed structure include: (1) to offer a free and fair digital convergence platform; (2) to issue licenses with advanced technology for 4G operations; (3) to reduce mobile termination rates and intermediation costs among telecom carriers; and (4) to enact anti-monopoly legislation to regulate the concentration of media content owned by a specific owner or group.

## INVESTMENT BARRIERS

Taiwan prohibits or restricts foreign investment in certain sectors, including agricultural production, chemical manufacturing, bus transportation, and public utilities. In June 2012, national treatment was accorded in beer and wine production, pharmaceutical manufacturing, and harbor service operations. Shipping companies registered in Taiwan are subject to a foreign ownership limit of 50 percent. Foreign ownership of Taiwan-registered merchant ships is limited to a 50 percent stake for ships engaged in both domestic and international shipping, increased from a previous 33 percent limit for domestic shipping. For vessels operating between Taiwan and the PRC, there is no foreign ownership restriction as long as a Taiwan-registered company registers the shipment.

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 foreign investment is 55 percent, including a direct foreign 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. Taiwan maintains extensive barriers against mainland Chinese investments, but is reviewing ways to liberalize these rules gradually.

**Portfolio Investment**

Foreign portfolio investors are required to register and 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. The cap on the balance of a foreign investor's NTD omnibus account resulting from profits gained from futures trading in Taiwan is NT$300 million ($10 million). If the balance exceeds the limit, the foreign investor is required to convert the excess NT dollars into U.S. dollars within five working days.

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 (QDIIs) to engage in portfolio investment and futures trading in Taiwan. Chinese 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. Taiwan regulators are considering raising the QDII investment quota above the current $500 million ceiling. 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 and outward limits of $5 million and $50 million, respectively.

## OTHER BARRIERS

**Pharmaceuticals**

The United States has been encouraging Taiwan to adopt a system of actual transaction pricing in order to address the significant gap between the amount that the Taiwan government reimburses for a pharmaceutical product and the price actually paid to the provider of that product. The gap distorts pharmaceutical trade and prescription patterns in Taiwan. These distortions are compounded by another aspect of the Taiwan health care system that permits doctors to both prescribe and dispense pharmaceuticals. Research-based pharmaceutical companies see separating these functions as essential to resolving the long-term pricing problem.

Taiwan implemented its national health insurance program in 1995 based on the National Health Insurance Act (NHIA). Biennial Price Volume Surveys (PVS) conducted by Taiwan’s Bureau of National Health Insurance (BNHI) have long been a major concern to the United States. The practice involves BNHI conducting a comprehensive market survey and, based on these results, implementing a series of reimbursement price reductions for products that appear to have been subject to significant discounts or gaps, as mentioned above. This nontransparent PVS process has created significant uncertainty in Taiwan's market, as it has often resulted in sudden, sharp reductions in reimbursement rates for many patented pharmaceutical products. Seven price volume surveys have been conducted since the establishment of Taiwan's national health insurance system, resulting in pharmaceutical prices in Taiwan that are currently estimated on average to be approximately 28 percent of the price of original industry-developed products marketed in the United States. Low reimbursement rates, negative rates of return and targeted pricing referencing Taiwan’s reimbursement prices by other countries in the region are all factors that increasingly are prompting drug firms to consider a delayed entry or complete withdrawal of their products from Taiwan.

In January 2010, Taiwan announced a new reimbursement scheme for pharmaceutical products designed to encourage the research and development of new drugs, increase product quality, and reduce the widening gap between reimbursement rates and market prices. U.S. industry remains concerned over the very strict criteria for defining breakthrough drugs, which reduce incentives to bring new technologies and innovative products to Taiwan. 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.

On January 4, 2011, Taiwan lawmakers passed an amendment to the NHIA to reduce the program's NT$50 billion (approximately $1.6 billion) deficit, as well as introduce more equitability and efficiency into the health insurance system. One of the core elements of the 2011 health system reforms was a Drug Expenditure Target (DET). Under the DET, medical and pharmaceutical industries and BNHI were to negotiate an annual target for pharmaceutical expenditures with the previous year as a baseline, plus a nominal growth rate to account for increasing costs and demand. Proponents of these reforms hoped that they would reduce incentives that create the price gap between reimbursement rates and actual prices paid for the pharmaceutical products, improve the predictability of reimbursement rates, improve reimbursements for breakthrough drugs, and adjust reimbursement mechanisms to more adequately match reimbursement rates to the value of innovative and generic pharmaceutical products. Following extensive consultations with stakeholders, the Ministry of Health established a mechanism to implement the DET for a two-year trial, effective January 1, 2013. The United States urges Taiwan to consult closely with industry stakeholders in implementing the DET in order to improve the mechanism and expand its coverage.

Taiwan formally established the Taiwan Food and Drug Administration (TFDA) on January 1, 2010 to replace the Bureau of Pharmaceutical Affairs. The TFDA is comprised of the agencies responsible for food and drug policy, license issuing, and product testing. Healthcare product manufacturers, including producers of pharmaceutical products and medical devices, must first apply to the TFDA for registration license approval and then to the BNHI for reimbursement in order to launch products in market. Under new drug review and registration procedures developed with U.S. industry input designed to fast-track drug approvals, a firm can apply to BNHI for drug reimbursement based on an approval letter issued by TFDA prior to obtaining a drug registration license. The United States continues to urge BNHI and TFDA to expedite the process to shorten the current three-year to four-year licensing and reimbursement approval period.

**Medical Devices**

The medical device industry welcomed the introduction of a balanced billing mechanism in the amended NHIA, which allows partial patient self-pay for higher-end devices or new technologies. Application approval is required for all devices, including those that might not qualify for reimbursement. Patients will be required to pay in full for those devices that are not listed on BNHI’s reimbursement list. BNHI plans to set up clear self-payment guidelines to allow patients earlier access to new devices, so that they are available prior to an issued reimbursement price. However, the mechanism provides BNHI the right to implement price limitations on certain transactions and to cap the total amount of optional patient self-payment. U.S. trade officials and industry have raised concerns that arbitrary limitations could negatively affect Taiwan consumers of advanced medical devices and have urged BNHI to set clear self-payment guidelines that allow for maximum flexibility and choice.

1.

The medical device industry (like the pharmaceutical industry) has proposed suspending the PVS, arguing that it lacks transparency and does not reduce budgetary waste as intended. The medical device industry has expressed concern over reimbursement policies that specify a single purchase price for all medical devices that treat a given indication. This policy does not take into account differences in quality and effectively subsidizes lower-cost devices while underpaying for more advanced, higher quality devices, thereby discouraging the introduction of these devices into the Taiwan market.

Both pharmaceutical products and medical devices are governed under the Pharmaceutical Affairs Law. In response to industry concerns, TFDA has agreed to establish a separate charter governing medical devices in the near future.

2.

TFDA officials continue to coordinate with industry to improve the medical device registration process. This year TFDA agreed that medical device companies can be considered "legal manufacturers," in that they have legal liability for their products no matter the manufacturing location and therefore can be deemed responsible for post-market surveillance of their products.

TFDA, in coordination with Taiwan Customs, announced in March 2012 that both the location of a legal manufacturer and country of origin (COO) listed on labels are acceptable for customs clearance if firms have provided the names of legal manufacturers and assembly companies and the name of the COO of key components in the original registration documents.

The Department of Health is also revising its testing and registration guidelines for in-vitro diagnostic drugs to adopt a more flexible procedure. The new guidelines are expected to allow importing companies to follow either U.S. or EU procedures, which could reduce excessive documentation and redundant testing for products made in Europe by U.S. companies.