

HONG KONG

TRADE SUMMARY

The U.S. goods trade surplus with Hong Kong was \$32.2 billion in 2011, an increase of \$9.9 billion from 2010. U.S. goods exports in 2011 were \$36.5 billion, up 37.4 percent from the previous year. Corresponding U.S. imports from Hong Kong were \$4.3 billion, roughly the same as in 2010. Hong Kong is currently the 10th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to Hong Kong were \$5.5 billion in 2010 (latest data available), and U.S. imports were \$6.5 billion. Sales of services in Hong Kong by majority U.S.-owned affiliates were \$29.4 billion in 2009 (latest data available), while sales of services in the United States by majority Hong Kong-owned firms were \$3.8 billion.

The stock of U.S. foreign direct investment (FDI) in Hong Kong was \$54.0 billion in 2010 (latest data available), up from \$49.2 billion in 2009. U.S. FDI in Hong Kong is primarily concentrated in nonbank holding companies, wholesale trade, and finance/insurance sectors.

IMPORT POLICIES

Hong Kong is a special administrative region (SAR) of the People's Republic of China. However, for trade, customs, and immigration purposes, Hong Kong is an independent administrative entity with its own tariffs, trade laws, and regulations, and its own seat at the WTO and APEC. The Hong Kong government (HKG) 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

Hong Kong does not have a comprehensive competition law, although individual regulatory regimes exist for certain sectors. In late 2006, the HKG established an independent Competition Policy Review Committee to discuss the need, scope, and application of a comprehensive and cross-sector law. Between 2008 and 2010, the HKG conducted two rounds of public consultations before a bill was finally introduced to the Legislative Council (LegCo) in July 2010. The draft law is primarily aimed at eliminating cartel behavior and abuses of dominant market positions. 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, Housing Authority, and the Trade Development Council. 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, and a series of Committee meetings have been scheduled. Media reports indicate that a vote could occur by June 2012.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The HKG generally 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, including as a result of the rapid growth of unauthorized file

sharing over peer-to-peer networks and a result of end-user business software piracy. In 2010, after industry groups failed to reach an agreement on a voluntary framework to address online infringements, the HKG drafted digital IPR protection amendments to the Copyright Ordinance of 1997, which could be voted on as soon as April 2012.

Separately, in August and September 2011, the HKG solicited views from select industry groups and the general public on a voluntary draft code of practice for online service providers (OSPs), which will provide guidelines to follow in order to take advantage of the bill's safe harbor provision, which limits and defines the liabilities of OSFs.

In addition, in February 2011, the HKG 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, or Mainland China. Public discussions continue.

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 places outside Hong Kong. In January 2012, the Hong Kong authorities cooperated with the U.S. Department of Justice to shut down the Hong Kong-based web site Megaupload, which is accused of racketeering, criminal copyright infringement, and money laundering in conjunction with charging users to watch and download pirated material. 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.