

# TAIWAN

## TRADE SUMMARY

The U.S. goods trade deficit with Taiwan was \$10.1 billion as of August 2011, up \$3.6 billion from the same period in 2010. U.S. goods exports in January 2011 to August 2011 were \$17.8 billion, up 9.2 percent from the previous year. Corresponding U.S. imports from Taiwan were \$27.9 billion, up 22.4 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 \$21.0 billion in 2010 (latest data available), up from \$19.5 billion in 2009. U.S. FDI in Taiwan is mostly in the manufacturing, wholesale trade, and finance/insurance 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 February 2012, the ECFA had not yet been formally notified.

## IMPORT POLICIES

### Tariffs

When Taiwan became a WTO Member in January 2002, the authorities implemented tariff-rate quotas (TRQs) on small passenger cars and 16 agricultural products. On January 1, 2007, in accordance with its WTO commitments, Taiwan made additional tariff cuts and increased TRQ amounts on these products. Beginning 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, certain types of offal, and milk.

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

### Import Controls

Taiwan has eliminated more than 99 percent of its import controls, but 101 product categories still face import restrictions, down from 107 product categories in 2010. Of these 101 categories, 15 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 began a three year phase-in period on January 1, 2011, with the goal of eliminating tariffs on all of the 267 items at the end of the 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 items and implemented tariff-rate quotas 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 persimmons, mackerel, carangid, and sardines. Currently, 16 agricultural products are subject to TRQs.

#### *Beef and Pork*

The United States is deeply concerned about Taiwan's trade practices affecting U.S. meat exports, including beef. For details, please see the 2012 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 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 \$45 million 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. Although Taiwan met its rice import obligations in 2009, 2010, and 2011, Taiwan has not addressed filling the shortfalls from 2007 and 2008. The United States continues to engage Taiwan on the ceiling price mechanism and on filling past shortfalls (approximately 70,000 metric tons).

### **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. However, the Legislative Yuan on November 8, 2011 passed an amendment to the "road traffic management and penalty act" allowing

motorcycles with engine displacement over 550cc to travel on highways during specific time periods and on certain road segments to be announced by MOTC beginning in 2012.

### **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.

To increase Taiwan's export competitiveness and economic growth, 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 TV, trade secret theft and misappropriation, and the continued availability of counterfeit pharmaceuticals in Taiwan. The importation and trans-shipment of counterfeit products from China is also a problem, 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 regulations, however, failed to indicate clearly what constituted an infringement, how notifications should be handled, and other procedural matters. As a result, the law has not been effectively implemented.

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 in which infringement shall be deemed to have occurred, and strengthens customs enforcement mechanisms for trademarked goods.

## **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. Industry has raised concerns that foreign banks operating in Taiwan have been asked to surrender their branch office license if they have established subsidiaries in Taiwan, in contravention of a prior understanding that these banks had with the financial regulators that they could keep both forms of operation. Further, Taiwan's banking regulatory body, the Financial Supervisory Commission (FSC), plans to require foreign subsidiary banks to establish stand-alone onshore data centers for servicing local residents and enterprises. FSC officials have argued that offshore, regional data centers neither provide Taiwan customers real time service nor guarantee their information security. FSC has also expressed concerns about its ability to exercise supervision over the operations of offshore data centers and these centers' ability to respond to Taiwan customers' needs during an emergency. Foreign banks have complained about the nontransparent nature of FSC decision making on this issue and such new requirement's variance with international practice.

### **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, an 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. In practice, however, the FSC has adopted several administrative measures to restrict offshore funds established by asset management businesses. For example, the FSC recently proposed to inspect more closely asset management companies that want to raise offshore funds exceeding NT\$20 billion (\$666 million) in Taiwan.

### **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 geographic restrictions on cable franchises are hampering the Taiwan public's access to a broader range of programming. These relatively low fees and franchise restrictions may also reduce the cable industry's incentives to invest in expensive digitalization of Taiwan's largely analog cable system. Analog cable systems are more susceptible to

signal theft. The Legislative Yuan is expected to pass an amendment to the Cable Radio and Television Law in the current session, which would ease the aforementioned restrictions and increase the cable digital television penetration rate to 75 percent by 2015.

### **Telecommunications Services**

The National Communications Commission (NCC) is an independent agency which regulates Taiwan's telecommunications and broadcasting sectors, and supports the development of these industries and is modeled after the U.S Federal Communications Commission. 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 (\$1.1 billion) of new broadband network construction which 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 based on low consumer interest, with consumers reluctant to switch from existing 3G and 2G services, and the WiMAX technology faces a strong challenge from the competing 4G technology, Long Term Evolution. As a result, Taiwan's 6 WiMax operators had only 129,000 users by the end of September of 2011.

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, and restrict another primary mobile phone operator, Taiwan Mobile Co., from acquiring a cable television multisystem 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. 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. For vessels operating between Taiwan and the PRC, there is no foreign ownership requirement, 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 was raised to 55 percent in December 2007, 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. 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. Taiwan maintains extensive barriers against mainland Chinese investments, but is reviewing ways to liberalize the rules gradually.

### **FOREIGN TRADE BARRIERS**

## **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. In 2007, Taiwan raised the cap from NT\$50 million (\$1.7 million) to NT\$300 million (\$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 within 5 working days, with the new balance below NT\$10 million (\$0.3 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. 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. 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. This gap distorts pharmaceutical trade and prescription patterns in Taiwan. These distortions are compounded by another aspect of the Taiwan health care system which 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.

On January 4, 2011, Taiwan lawmakers passed an amendment to the National Health Insurance Act (NHIA), which established Taiwan's national health insurance program in 1995, to reduce the program's NT\$50 billion (\$1.6 billion) deficit as well as introduce more equitability and efficiency into the health insurance system. Changes in the NHIA affecting pharmaceutical products include a proposal for a new drug pricing and reimbursement method called the "Drug Expenditure Target" (DET), as well as measures that address problems associated with generic and innovative drug pricing mechanisms. Proponents of these reforms hope that they will also help reduce incentives that create the price gap between reimbursement rates and actual price paid for the pharmaceutical products.

Industry efforts for NHIA reforms are primarily focused on: implementation of a DET program that would improve the predictability of reimbursement rates, modification of classification procedures and improvements in reimbursements for breakthrough drugs, and adjustments to reimbursement mechanisms to more adequately match reimbursement rates to value of innovative and generic pharmaceutical products. Taiwan, however, has not yet implemented the DET, and instead, on December 1, 2011, implemented the 7th Price Volume Survey (PVS), a process by which Taiwan's Bureau of National Health Insurance (BNHI) conducts a comprehensive market survey, and based on these results, implements a series of reimbursement price reductions for products that appear to have been subject to

significant discounts. This nontransparent 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. As in the past, the seventh PVS resulted in significant reductions in reimbursement rates. While the DET is due to be implemented by July 2012, industry has raised concerns about whether the Department of Health will be able to meet this target date.

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 reduces 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.

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 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 bring their products to 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. BNHI and TFDA, however, have not yet expedited the process to the point of shortening the current three year to four year licensing and reimbursement approval period.

### **Medical Devices**

The medical device industry welcomed the introduction of a balance billing mechanism in the amended NHIA, which allows partial patient self-pay for higher-end devices or new technologies. 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.

As for product registration, TFDA officials continue to work with industry to improve the medical device registration process, particularly with regard to the treatment of identical products made at different manufacturing sites, small modifications of previously approved devices, or complex devices assembled using various components sourced from manufacturers in different countries.

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.