TAIWAN

TRADE SUMMARY

The U.S. goods trade deficit with Taiwan was $9.9 billion in 2009, down $1.5 billion from 2008. U.S. goods exports in 2009 were $18.4 billion, down 26.1 percent from the previous year. Corresponding U.S. imports from Taiwan were $28.4 billion, down 21.9 percent. Taiwan is currently the 15th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to Taiwan were $7.3 billion in 2008 (latest data available), and U.S. imports were $7.7 billion. Sales of services in Taiwan by majority U.S.-owned affiliates were $9.9 billion in 2007 (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 $16.6 billion in 2008 (latest data available), up from $15.7 billion in 2007. U.S. FDI in Taiwan is mostly in the finance/insurance, manufacturing, and wholesale trade sectors.

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 passenger cars with engine displacement of over 2000cc dropped from 35 percent to 30 percent, and this rate will remain in place until 2011. At that time, Taiwan has committed to eliminate fully 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 did not previously import many of these products, SSG trigger volumes are relatively low. Over the last few years, Taiwan has imposed SSG provisions on poultry imports several times, and SSGs have also been triggered on several 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), savory snack foods, vegetable juices, potato and potato products, table grapes, apples, fresh vegetables, and citrus products.

Import Controls

Taiwan has eliminated more than 99 percent of its import controls, but 87 product categories still face import restrictions, up from 71 product categories in 2007. Of these 87 categories, 24 require import permits from the Board of Foreign Trade, and 63 are prohibited. Most of the requirements are reportedly based on public health and national defense concerns. Taiwan retains import bans on over 2,000 products from the People's Republic of China (PRC). U.S. industry reports that these bans are causing increasing problems in managing their regional supply chains and in cases where final products are produced in PRC-based facilities.

Agriculture and Fish Products

Before it became a WTO Member, Taiwan banned or restricted imports of 42 agricultural and fish items. In January 2002, Taiwan liberalized imports of 18 of these categories and implemented TRQs on the remaining 24 items. On January 1, 2005, Taiwan eliminated TRQs on a number of products of interest to the United States, including chicken meat, poultry offal, and pork bellies and offal.

Rice

Upon accession to the WTO in 2002, Taiwan committed to lifting 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 about Taiwan's method of quota allocation, Taiwan subsequently agreed that its government 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 at current world prices.

Since late 2007, however, U.S. exporters have raised increasingly vocal 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. As a result, Taiwan did not fill its 2007 or 2008 CSQs for purchasing U.S. rice. The United States is engaging Taiwan on filling past shortfalls, and in February 2010 Taiwan retendered a portion of the shortfall from 2008.

In 2009, the United States and Taiwan consulted regularly on the U.S. rice quota issue which has resulted in some improvements in Taiwan's procurement of U.S. rice. By the end of 2009, Taiwan had contracted for over 98 percent of the 2009 U.S. rice CSQ.

Wood Products

After several years of discussion and review, Taiwan revised its building codes in line with international practices, and on October 31, 2008, the Construction and Planning Agency of the Ministry of the Interior announced long awaited companion fire codes for wood frame construction. U.S. industry believes the new codes will allow builders to obtain insurance for construction and further encourage wood use in construction. Taiwan imports of U.S. softwood and treated lumber increased 17 percent in the first 10 months of 2009 versus the same period in 2008 despite the impact of the global economic recession. However, industry has expressed concerns about the use of counterfeit U.S. industry-associated wood certification stamps.

Fire codes for heavy timber were not included in the 2008 announcement. However, those interested in using heavy timber in construction can apply to Taiwan authorities for fire resistance testing, although this option appears to be prohibitively costly. U.S. industry groups have approached Taiwan authorities to set schedules for expanding fire codes on the heavy timber products, but have not received positive responses. Industry estimates the adverse impact on U.S. exports at $2.5 million.

Automobiles and Motorcycles

On November 1, 2007, the Ministry of Transportation and Communications (MOTC) opened most expressways to large motorcycles with engine displacement of 550cc or more. In 2009, the MOTC asked the Directorate General of Highways (DGH) to study further the feasibility of opening highways to those motorcycles. DGH finished the study in November 2009, and the MOTC concluded that opening highways to large motorcycles would not be appropriate.

The tariff on small automobiles is 30 percent, that of motorcycles between 250cc to 500cc-displacement is 18 percent, and that of above-500cc-displacement motorcycles is 20 percent.

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

IPR protection continues to be an important issue in the United States-Taiwan trade relationship. The United States recognizes Taiwan's continuing efforts to improve enforcement of IPR, and on January 16, 2009, Taiwan was removed from the Special 301 Watch List.

However, rights holders continue to express concerns 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 availability of counterfeit pharmaceuticals in Taiwan. The International Intellectual Property Alliance estimates that losses due to IPR copyright piracy in Taiwan cost U.S. industry $115.4 million in 2008, down from $327.8 million in 2007. The importation and transshipment of counterfeit products from China is also a problem.

Piracy on the Internet remains a serious concern for IP enforcement 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 ISP liability for the infringing activities of users on their networks.

Pharmaceutical and Medical Devices

Taiwan has identified both the medical device and pharmaceutical sectors as priorities for development, and Taiwan agencies sometimes appear to favor the interests of local companies over foreign firms.

The U.S. pharmaceutical and medical device industries continue to express concern that Taiwan's procedures for medical product pricing and reimbursement fail to adequately recognize the value of innovative medical products for patients in Taiwan.

Through the Trade and Investment Framework Agreement process, as well as other bilateral engagement, the United States has been encouraging Taiwan to adopt a system of actual transaction pricing (ATP) in order to address the significant gap between the amount that the Bureau of National Health Insurance (BNHI) 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 and is worsened by hospital doctors' ability to both prescribe and dispense pharmaceuticals, which may result in prescribing practices based on monetary factors instead of purely medical considerations. Separating these functions would help to resolve the long-term pricing problem. Industry stakeholders have been working with DOH to address these and other issues related to the importance and value of innovative pharmaceuticals, and would like to see the finalization of DOH's plans occur during 2010.

Taiwan's lengthy pharmaceutical registration process imposes unnecessary costs and slows market entry for new drugs that have already received regulatory approval in other advanced economies. These procedures include requirements to provide Certificates of Pharmaceutical Product (CPP) which certify that the drug is for sale in two separate markets outside Taiwan. In 2009, after consultation with stakeholders, the Department of Health (DOH), Bureau of Pharmaceutical Affairs (BOPA) indicated that it is considering new registration procedures that would reduce the current requirement to one CPP, which could help speed introduction of new U.S. pharmaceuticals into the Taiwan market. BOPA, however, has not yet finalized the new CPP plan.

For medical devices, BNHI pricing criteria currently specify a single purchase price for all medical devices that treat the same indication. This policy effectively subsidizes lower cost devices while forcing producers of high-priced, high-value devices (which are often accompanied by additional services) to be reimbursed at a lower level. In addition, registration and approval procedures for imports of most advanced medical devices are complex and time-consuming, and are the subject of longstanding complaints by U.S. firms. The United States encourages Taiwan to continue to engage in collaborative consultations with relevant stakeholders to consider improving such policies in order to better facilitate the private sector's development of innovative products and improve patients' access to such products.

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.

DOH is also revising its Guidelines for Registration for In Vitro Diagnostic Drug (IVD) Testing to adopt a more flexible product registration procedure. Such revisions on IVD medical devices management are expected to allow importing companies to follow either U.S. or EU procedures, rather than demand extensive documentation and redundant testing for products made in Europe by U.S. companies.

In addition, on January 1, 2010, Taiwan established the Taiwan Food and Drug Administration (TFDA) by combining agencies in charge of food and drug product policymaking, license issuing, and product testing into one office, which may consolidate and speed up approval procedures. According to the Taipei American Chamber of Commerce Pharmaceuticals Committee, reducing burdensome bureaucratic requirements to speed up approvals for new drugs and medical devices would result in a potential increase in U.S. exports.

SERVICES BARRIERS

Banking Services

Foreign banks may set up representative offices, branches, and subsidiaries. Foreign banking institutions may acquire up to 100 percent equity in Taiwan banks. Foreign-invested banks in Taiwan are accorded national treatment, and these banks were subject to a 25 percent ownership limit for each investor before the end of 2008. Beginning in January 2009, the 25 percent ownership limit has been lifted, although a single investor, a group of related investors, or the total of different investors seeking to acquire an equity stake of 10 percent, 25 percent, or 50 percent must get prior approval from the government.

Healthcare Services

All health care 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.

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, hamper the Taiwan public's access to a broader range of programming, and may 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) was established in 2006 to regulate the telecommunications and broadcasting sectors. In January 2008, the NCC reduced capital requirements for facilities-based operators from NT$16 billion ($485 million) to NT$6.4 billion ($194 million) for an integrated network operator; from NT$1.2 billion ($36.4 million) to NT$500 million ($15.2 million) for local call service providers in Taipei; and from NT$2 billion ($60.0 million) to NT$800 million ($24.2 million) for both long distance and international call operators. In September 2009, the NCC amended regulations to allow local call service providers flexibility in offering integrated services (*e.g.* long distance) using leased infrastructure, which will strengthen such operators' competitiveness by lowering installation costs. In 2008, the NCC also began accepting and reviewing license applications at any time, rather than on a quarterly basis.

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). The State maintains a 34 percent ownership share of CHT.

In addition to promoting 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 situation that will help break CHT's dominance of the telecommunications network.

INVESTMENT BARRIERS

Taiwan prohibits or restricts foreign investment in certain sectors, including agricultural production, chemical manufacturing, bus transportation, public utilities, and postal services. In May 2008, although Taiwan removed single-axle truck leasing from the list of sectors in which foreign investment is restricted, it added pesticides to that list. Taiwan has allowed private production of cigarettes since 2004 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.

The 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 Transport and Communications, which 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 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.

A 49 percent foreign ownership limit remains on 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. 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 since December 2003, registration via the Internet is permitted. 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 June 2007, Taiwan set a cap of NT$300 million (approximately US$9.2 billion) on the balance of a foreign investor's NT$ 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$ 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, government bonds, financial bonds, and corporate bonds issued by public companies, asset-backed securities, and call warrants. An institutional investor that engages in futures trading can only do so using foreign currencies.

Since October 2003, foreign hedge funds have been permitted to trade in Taiwan's stock market, but 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.