TAIWAN

TRADE SUMMARY

U.S. goods exports in 2013 were $25.6 billion, up 5.3 percent from the previous year. Corresponding U.S. imports from Taiwan were $37.9 billion, down 2.4 percent. The U.S. goods trade deficit with Taiwan was $12.3 billion in 2013, down $2.2 billion from 2012. Taiwan is currently the 16th largest export market for U.S. goods.

IMPORT POLICIES

Tariffs

When Taiwan became a WTO Member in January 2002, the authorities implemented tariff-rate quotas (TRQs) on small passenger automobiles and 24 agricultural products. Taiwan subsequently eliminated TRQs for eight agricultural products. 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 automobiles. In addition, the commodity tax on small passenger automobiles dropped from 35 percent to 30 percent.

Taiwan maintains Special Safeguards (SSGs) for a number of agricultural products covered by TRQs. SSGs, which are 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 or eliminate tariffs on many goods, including large motorcycles, agricultural products, and soda ash.

Agriculture and Fish Products

Prior to joining the WTO, Taiwan banned or restricted imports of 42 agriculture and fish products. In January 2002, Taiwan eliminated restrictions on the importation of 18 of these products and implemented TRQs on the remaining 24. 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, pork bellies and pork offal. In February 2005, Taiwan eliminated its sugar TRQ. At the end of 2007, Taiwan phased out TRQs for persimmons, mackerel, carangid, and sardines. Currently, 16 agricultural products still are subject to TRQs.

Beef and Pork

Despite administrative measures implemented in September 2012 that led to improved market access for U.S. beef previously restricted due to ractopamine, the United States remains concerned about Taiwan's other trade practices, including an excessive import licensing regime and box-by-box inspection, affecting U.S. meat exports, including beef offal and pork, as well as remaining market access restrictions on certain beef and all pork products produced using ractopamine. For details, please see the 2014 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 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.) The SBS scheme is attractive to U.S. exporters because private importers bear all costs of importing, storing and distributing the rice.

In 2003, based on input from the United States and WTO members, Taiwan implemented a public sector import quota based on a country-specific quota (CSQ) regime, with the U.S. quota of 64,634 MT accounting for the largest share, valued at approximately $45 million at current world prices. However, in 2007 and 2008, Taiwan rejected all bids for U.S. rice under its WTO CSQ, arguing that high U.S. prices had exceeded Taiwan's ceiling price. U.S. exporters raised concerns that Taiwan’s ceiling price mechanism, which is not made public, had arbitrarily set prices lower than the levels bid by U.S. exporters, causing the tenders to fail. Taiwan authorities have not agreed to fill the 2007 and 2008 shortfalls (approximately 80,000 MT on a brown rice basis).

As of March 2014, Taiwan has yet to fulfill their 2013 CSQ purchase obligations. Taiwan notified AIT that 3,000 MT of 2013 U.S. rice under the normal tender would have to be re-tendered as the miller lost his license due to mislabeled rice. But, recent reports suggest an additional 2,000 MT of 2013 rice, allotted under the SBS tender, will also have to be re-tendered. Taiwan has assured AIT that it will fulfill the 3,000 MT normal tender shortfall, but has not acknowledged reports on the additional 2013 tonnage. The United States continues to engage Taiwan on the ceiling price mechanism and ensuring it fulfills its future obligations not based on import licenses issued but on actual import figures.

In 2012, Taiwan authorities unilaterally decided to shift a larger percentage of the U.S. CSQ to SBS tenders. Although the SBS tenders have been working well, U.S. industry is concerned that relatively low default penalties create a situation where a successful bidder can simply walk away from a purchase for any reason, leaving the quota unfilled. In response to U.S. concerns about the adequacy of the performance bond under the SBS scheme, Taiwan replaced the 10 percent bond with a higher-value NT $2000 ($66) per ton bond for 2013 rice CSQ imports under the SBS scheme. Nevertheless, the United States is still concerned that the performance bond price may be too low, especially in years with high rice prices. Additionally, included in the March 18, 2013 tender is language effectively allowing the contractor to terminate the contract with full refund of performance bond, should pending regulatory amendments, come into force during the contract performance period. The U.S. Government continues to monitor the situation to ensure that the SBS scheme functions well, so no barriers impede filling all the rice quotas.

Industrial Goods

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. 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 includes mijiu rice wine, a domestically produced distilled spirit. Prior to this amendment, the enforcement rules required 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 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 that 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 should 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 spur 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 program was expanded to cover additional items on January 1, 2013. The rebate currently applies to 1,751 products in categories including electronics, textiles, machinery, chemicals, mineral products, basic metal products, and plastics.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Rights holders continue to express a number of concerns, including as to infringement of copyrighted material on the Internet (including, but not limited to, file sharing and the use of media box hardware that may contain or facilitate the user's access via the Internet to pirated content), 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, cable television signal theft, and trade secret misappropriation. The importation and trans-shipment of counterfeit products is also a problem, as is the collusion of some Taiwan companies in supplying components to factories in China producing "Shanzhai" counterfeits.

While 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 has not been effectively implemented to date. In 2013, Taiwan Intellectual Property Office (TIPO) put forward, but then rescinded, a proposal to strengthen administrative enforcement against Internet piracy, including provisions that would instruct ISPs to block access to IP addresses and domain names known to host copyright-infringing content. Taiwan authorities have yet to develop an effective response to media box piracy.

The Legislative Yuan amended Taiwan's Trade Secrets Law in January 2013 to provide for greater deterrents and enhanced penalties for trade secrets misappropriation done with the intention of using trade secrets outside of Taiwan. Additional steps should be taken to address the systemic obstacles preventing companies from fully protecting and enforcing against trade secret misappropriation.

SERVICES BARRIERS

Banking Services

Industry has raised concerns that Taiwan's banking regulatory body, the Financial Supervisory Commission (FSC), asked foreign banks operating in Taiwan to surrender their branch office licenses, if they had since established subsidiaries in Taiwan. This demand was contrary to the banks' prior understanding with the FSC that the banks could maintain both forms of operation. In November 2013, FSC indicated that it would allow foreign banks in Taiwan to keep both their subsidiary and branch operations, but asked that foreign banks' branches limit their primary business scope to corporate finance and derivatives services for large companies.

In late 2011, the FSC passed a rule to require foreign subsidiary banks to establish standalone onshore data centers within the next four years for servicing local residents and enterprises, despite concerns raised by foreign banks. U.S. banks and electronic payment service suppliers have grown increasingly concerned as the deadline for implementation nears. 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.

Securities Services

In December 2012, the FSC announced that it would adopt a differential management approach, provide preferential licensing procedures for foreign trust fund companies that meet FSC's localized data storage standards. The Taiwan Central Bank signed a currency settlement MOU with its Chinese counterpart that went into effect February 2013, under which Taiwan securities firms are able to provide RMB-denominated financial products.

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. The National Communications Commission (NCC) announced in July 2012 that it would relax geographic restrictions on cable franchises for new and incumbent operators agreeing to use digital signals. Taiwan's cable digital television (DTV) penetration rate rose from 18.2 percent in September 2012 to 30.9 percent in June 2013, while NCC's target is to reach 100 percent in 2014. However, many experts point to continuing caps of NT$600 ($20) on monthly cable television fees as hampering the Taiwan public's access to a broader range and higher quality of programming. The NCC has announced plans to implement "a la carte" DTV service by 2017, which would remove the cap on monthly fees and allow for differential payment by consumers.

INVESTMENT BARRIERS

Taiwan prohibits or restricts foreign investment in certain sectors, including agricultural production, chemical manufacturing, bus transportation, and public social services (including public education, health, child care, sewage, and water services). 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 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 Chunghwa Telecom (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, and high speed railways is limited to 49 percent of the total shares issued. The foreign ownership ceiling on airline companies, airport ground handling companies, forwarders, air cargo terminals, and catering companies is 49.99 percent, with each individual foreign investor subject to an ownership limit of 25 percent. These sectors remain closed to investment from the People's Republic of China. Taiwan allows 100 percent foreign ownership of port facilities, but sets a ceiling of 49.99 percent on the share of investment from the People's Republic of China, which is further restricted to Build-Operate-Transfer projects.

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 New Taiwan Dollar (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 NT dollars into U.S. dollars within 5 working days, with the new NTD balance below NT$10 million ($0.3 million).

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

U.S. industry continues to underscore the need to create a more stable market for pharmaceuticals, including innovative pharmaceuticals, in Taiwan's health care system.

In January 2013, Taiwan implemented the 2nd Generation National Health Insurance (2G NHI) program, which replaced the 1st Generation NHI program launched in 1995. The 2G NHI Act aimed to reduce the NHI program's deficit, as well as introduce more equitability and efficiency into the health insurance system. One of the core elements of the 2013 health system reforms was a two-year pilot program (from January 2013 to December 2014) replacing Biennial Price Volume Surveys (PVS) with a Drug Expenditure Target (DET). While intended to address the gap between pharmaceutical reimbursements and actual costs, the PVS had led in practice to price unpredictability for pharmaceutical products and had long been of concern to U.S. industry. Under the DET, medical and pharmaceutical industries and Taiwan's Bureau of National Health Insurance (BNHI) would negotiate to set an annual target for pharmaceutical expenditures using the previous year's drug expenses as a baseline and a nominal growth rate to account for increasing costs and demand. Proponents of these reforms hope that they will 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. However, important questions about implementation remain, including how Taiwan authorities would respond if the annual expenditure for pharmaceuticals under this program exceeds the target. If Taiwan authorities do not permit the DET to grow at a rate reflecting the needs of Taiwan's patients or even reduce permitted expenditures to make up for years in which spending exceeds the target, there could be significant downward pressure on the prices of pharmaceuticals, potentially leading to lessened availability of innovative pharmaceutical products in 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.

Medical Devices

The U.S. medical device industry continues to stress its concerns over product license approvals and pricing review mechanisms. A main industry goal had been to simplify the documentation required in the approval process. Taiwan Food and Drug Administration (TFDA) classifies medical devices into Class I, Class II and Class III based on risk level. Class I products require only desk reviews, while Class II and III devices require increasing levels of documentation. TFDA has offered a fast track for Class II product registration by waiving clinical trials, but TFDA continues to require documentation for fast-track approval that is no longer issued by the U.S. Food and Drug Administration (FDA), such as a Certificate for Foreign Government. Moreover, TFDA currently requires both EU and U.S. market clearance documents, and industry believes that only one of the two sets of market clearance documents should suffice.

Self-pay and balance billing are two mechanisms introduced by Taiwan authorities to allow Taiwan patients to have the option of choosing medical devices that are not paid in-full by the government. The Bureau of National Health Insurance (BNHI) promulgated Self-pay Guidelines to hospitals in 2012. Under current practice, BNHI reimburses hospitals with both an operation fee and a procedure fee, with the procedure fee set at 53 percent of the operation fee. The stated goal of this policy is to control hospitals' expenditures on general-use devices. At present, however, BNHI does not provide reimbursement for implanted devices under either fee scheme. Implants, in addition to a range of other commonly used devices not approved for reimbursement, must instead be issued a self-pay code. Industry estimates some 2,000 devices regularly used by hospitals must apply for a self-pay code under the BNHI guidelines. Any devices that fail to obtain a self-pay code are not permitted to be sold in the Taiwan market, and hospitals that ask patients to self-pay for devices without a code are subject to administrative penalties by BNHI.

The balance billing mechanism, introduced in January 2013, allows partial patient self pay for higher end devices or new technologies. BNHI has the authority to introduce a price cap that applies a ceiling on the price a patient will pay on new balance billing items, but has agreed to refrain from doing so for the first two years of implementation. The 2G NHI Act does not require the BNHI to put a ceiling on the amount of balance billing allowed for a given device, but consumer, patient and employer representatives in a new product and technology price review committee, the Pharmaceutical Benefit and Price Schedule

(PBPS) Committee, can request the BNHI to make a price-cap recommendation for specific products. If BNHI's recommendation for or against a cap is not accepted by the PBPS Committee, reimbursement price approval will be delayed. The result would be to delay product launch in the Taiwan market.

U.S. industry and trade officials have pressed for a flexible approach that would reduce such strict limitations on what products may enter the market as self-pay or balance-billing devices, provide Taiwan consumers of advanced medical devices greater flexibility and choice, and provide clear self-payment guidelines to allow earlier access to new devices prior to the establishment of a reimbursement price.

The medical device industry (like the pharmaceutical industry) has proposed suspending the PVS permanently, 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. It therefore effectively subsidizes lower-cost devices while underpaying for more advanced, higher quality devices, thereby discouraging the introduction of these devices into the Taiwan market.

Currently, 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 regulation governing medical devices in the near future.