HONG KONG

TRADE SUMMARY

The U.S. trade surplus with Hong Kong was $4.7 billion in 2003, versus $3.3 billion in 2002. U.S. goods exports in 2003 were $13.5 billion, compared to $12.6 billion for 2002. Corresponding U.S. imports from Hong Kong in 2003 were $8.9 billion, versus $9.3 billion for 2002. Hong Kong 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 Hong Kong were $3.4 billion in 2002 (latest data available), and U.S. imports were $3.7 billion. Sales of services in Hong Kong by majority U.S.-owned affiliates were $7.8 billion in 2001 (latest data available), while sales of services in the United States by majority Hong Kong-owned firms were $1.2 billion.

The stock of U.S. foreign direct investment in Hong Kong rose to $35.8 billion in 2002, up 11.5 percent from the 2001 figure of $32.1 billion. U.S. direct investment in Hong Kong is concentrated in the wholesale, finance, and utilities sectors.

OVERVIEW OF HONG KONG'S ECONOMY

Under the terms by which Hong Kong became a Special Administrative Region of the People's Republic of China (PRC) in 1997, Hong Kong retains a high degree of autonomy in all areas except foreign affairs and defense. As a separate customs territory with autonomy in the conduct of its economic, trade, and financial policies, Hong Kong retains independent membership in economic organizations such as the World Trade Organization and the Asia-Pacific Economic Cooperation forum.

Hong Kong's economy grew by 4 percent in real terms in the third quarter of 2003, recovering from a Severe Acute Respiratory Syndrome-induced 0.5 percent contraction in the second quarter. The rebound was partly stimulated by tourism, which was boosted by China's liberalization of travel regulations allowing tourists from the PRC to visit Hong Kong. Strong exports of goods and services also contributed to the economic resurgence, as did consumer demand, which grew for the first time in two years, and increased retail sales. The unemployment rate hit a record high of 8.7 percent in July 2003 but receded to 7.3 percent by January 2004. Hong Kong has suffered from deflation for the past five years, though deflation is easing as the decline in real estate prices slows down.

Hong Kong faces the need to restructure its high-cost, service-based economy while also addressing growing competition in the years ahead to its traditional role of entrepot to the Chinese mainland. Despite these challenges and the recent economic slowdown, Hong Kong enjoys a number of long-term economic advantages, including a large market and base of production in the Chinese mainland, massive fiscal and foreign exchange reserves, virtually no public debt, strong legal and banking systems, world-class infrastructure, and a rigorously-enforced anti-corruption regime. In addition, Hong Kong is well-positioned to benefit from the growth in trade resulting from China's WTO accession.

On June 29, 2003, Hong Kong and China signed the Closer Economic Partnership Arrangement (CEPA), a free trade agreement granting Hong Kong's manufacturers and service suppliers preferential access to the Chinese market. On January 1, 2004, Hong Kong-origin goods in 374 categories became eligible for tariff-free treatment and Hong Kong-registered companies enjoy preferential access to 18 Mainland service sectors. Preferential access for five types of value-added telecommunications services was implemented on October 1, 2003.

IMPORT POLICIES

The Hong Kong Government pursues a market-oriented approach to commerce. Hong Kong is a dutyfree port, with few barriers to trade in goods and services and few restrictions on foreign capital flows and investment. Hong Kong does maintain excise duties on certain goods, including alcohol beverage products and wine. These duties on alcohol beverage products and wine range from 30 percent to 100 percent *ad valorem* and have been identified as a significant concern for U.S. exporters and producers.

Hong Kong banned imports of U.S. beef in December 2003 with the detection of one positive case of Bovine Spongiform Encephalopathy (BSE) in the State of Washington. As of the publication of this report, the U.S. government is taking aggressive action and is working intensively to re-open the market as quickly as possible. In addition, the United States is working in the International Organization for Epizootics to revise international standards on BSE to reflect current scientific knowledge.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Hong Kong continues to maintain a robust IPR protection regime. Hong Kong has strong laws in place, a dedicated and effective enforcement capacity, and a judicial system that supports enforcement efforts by sentencing those convicted of IPR violations with jail time. Further, Hong Kong has sustained efforts to combat Internet piracy and to educate its public about the negative repercussions of all types of piracy.

Hong Kong continues to conduct aggressive raids at the retail level and to act against IPR infringements over the Internet. Hong Kong also has sustained public education efforts to encourage respect for intellectual property rights. In 2003, there were 1,286 piracy-related arrests. During the same period, the judiciary issued 1,870 copyright and trademark convictions, the majority of which led to prison sentences of six to twelve months. Hong Kong Customs intelligence operations and raids on underground production facilities have closed most large-scale pirate manufacturing, prompting many optical disc pirates to switch to computers or CD burners to produce illicit copies and forcing retailers to rely increasingly on smuggled products. Despite the crackdown on large-scale illicit manufacturing, there is still concern about Hong Kong’s 724 licensed optical disc production lines, which give the territory a huge overcapacity that must be carefully monitored. The volume of openly marketed pirated discs found in retail shopping arcades has decreased significantly but more dispersed sales of infringing products remain a problem.

Hong Kong's IPR enforcement efforts have helped reduce losses to U.S. companies, but end-use piracy and the illicit importation and trans-shipment of pirated and counterfeit goods, including optical discs and name brand handbags and apparel from China and elsewhere in the region are continuing problems. The software industry estimated that the piracy rate of business software used in Hong Kong rose from 53 percent in 2001 to 56 percent in 2002. U.S. officials have encouraged Hong Kong authorities to sustain the pace of their ongoing enforcement activities aimed at local producers and vendors of infringing products and to step up efforts against end-use piracy and the cross-boundary flow of infringing products.

Despite Hong Kong’s strong overall efforts, the U.S. Government continues to monitor the IPR situation to ensure that these efforts are sustained and that areas of vulnerability are addressed. Several legislative amendments affecting IP rights holders were passed or proposed in 2003. The government enacted a law in November 2003 to remove civil and criminal liabilities for parallel importation of computer software, while maintaining criminal penalties for the parallel importation of copyrighted products such as movies and music. In February 2003 the Legislative Council began considering a bill that would permanently suspend criminal provisions for unauthorized copying of publications. The proposed bill would create new provisions to crack down on illicit copy shops but the U.S. Government and various industry groups expressed concern about the permanent suspension and other provisions, including those that weaken criminal liability for end-use piracy. To address these concerns, the Hong Kong government in February 2004 decided to pull back the proposed bill, except for provisions on illicit copy shops, to work on drafting new legislation.

U.S. pharmaceutical companies are concerned that the Hong Kong Department of Health continues to issue marketing authorizations for pharmaceutical products that may infringe upon existing patents. In addition, the industry believes that counterfeit pharmaceuticals enter Hong Kong and are then repackaged as legitimate products for sale, threatening consumer safety and brand reputation.

SERVICES BARRIERS

Hong Kong completed its liberalization of the fixed-line telecommunications network services market on January 1, 2003. There are no limits on the number of licenses issued and no time limit for submitting license applications. The government is now reviewing its policy of requiring the dominant telecommunications operator – PCCW – to lease its “last mile” of interconnection with many Hong Kong buildings to competing fixed-line service providers at set prices.

In November 2003, the People's Bank of China solicited proposals from Hong Kong banks for clearing arrangements necessary to permit Hong Kong-licensed banks to conduct personal Renminbi (RMB) business on a trial basis. The scope of RMB business is limited to deposit-taking, exchange, remittances and credit cards.

An October 2002 civil aviation agreement between Hong Kong and the United States significantly expanded opportunities for U.S. carriers. The agreement allows deeper cooperative relationships between U.S. and Hong Kong carriers (codesharing) and also increases the ability of U.S. carriers to operate cargo and passenger services between Hong Kong and third areas. Restrictions on frequencies and routes for these services remain, however, as the agreement fell short of creating completely “open skies.”

Foreign law firms that practice foreign law in Hong Kong are barred from practicing Hong Kong law and from employing or joining into partnership with Hong Kong solicitors. Foreign law firms that wish to provide both foreign and Hong Kong legal services may do so only by establishing a Hong Kong legal practice in which all partners are Hong Kong-qualified solicitors and the number of registered foreign lawyers employed does not exceed the number of Hong Kong solicitors. Such firms may be associated with, or even branches of, overseas law firms if they meet certain criteria, e.g., at least one partner of the Hong Kong firm must also be a partner in the overseas firm.

Hong Kong has no general competition law that prohibits incumbents from using their market dominance to keep out new entrants. There are several domestic service sectors where one or a few firms dominate market share.

ELECTRONIC COMMERCE

Hong Kong places great importance on its role as an information technology and electronic commerce hub. In June 2003, the government introduced to the Legislative Council amendments to the Electronic Transactions Ordinance to update and improve the legal framework for the use of electronic transactions. The government proposed adopting a technology-neutral approach to using electronic signatures for satisfying legal signature requirements. The government also proposed to remove unnecessary legal impediments to electronic transactions and to streamline the operation of a voluntary recognition scheme for certification authorities.

As part of its e-government initiative, Hong Kong launched the Multi-Application Smart Identity Card in June 2003. In addition to providing access to various government services, the card also features an embedded digital certificate that enables secure on-line bank, stock trading, or tax return transactions.

OTHER BARRIERS

Pharmaceuticals

U.S. industry has expressed concerns about lengthy approval procedures for new pharmaceuticals, which shorten the effective patent life of new products by six months. In addition, the U.S. industry is concerned with non-transparency in the Hong Kong Hospital Authority's approval process for new drugs. These cumbersome procedures also inhibit the patent owners' ability to market their products on a timely basis.