HONG KONG

TRADE SUMMARY

In 2001, the U.S. trade surplus with Hong Kong amounted to $4.4 billion, up from last year's $3.1 billion. U.S. goods imports from Hong Kong were $9.7 billion and goods exports were $14.1 billion, making Hong Kong the United States' 13th largest export market in 2001.

U.S. exports of private commercial services (i.e., excluding military and government) to Hong Kong were $3.8 billion in 2000 (latest data available), and U.S. imports were $4.1 billion. Sales of services in Hong Kong by majority U.S.-owned affiliates were $7.8 billion in 1999 (latest data available), while sales of services in the United States by majority Hong Kong-owned firms were $1.4 billion.

The stock of U.S. foreign direct investment in Hong Kong rose to $23.3 billion in 2000, up 16.0 percent from 1999. U.S. direct investment in Hong Kong is concentrated in the finance, wholesale services and manufacturing sectors.

On July 1, 1997, Hong Kong became a Special Administrative Region (SAR) of the People's Republic of China (PRC). Under the policy of "one country, two systems," Hong Kong enjoys a high degree of autonomy from the PRC in managing its trade, financial, social, legal, and other internal matters for 50 years. Although the PRC has assumed responsibility for conducting foreign affairs and defense matters for the SAR, Hong Kong remains a separate customs territory with all of its previous border and customs arrangements. 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 Asia-Pacific Economic Cooperation.

The Asian financial crisis provoked a sharp economic downturn in 1998 and the first half of 1999, but Hong Kong's economic fundamentals remained strong, with a stable banking system, prudent fiscal policy and massive dollar reserves. A strong, export-led recovery in 2000 and early 2001 stalled abruptly at mid-year, following a slump in consumer demand in the United States and Europe. Unemployment stood at 6.1 percent in December 2001. Hong Kong projects full year real growth for 2001 at zero percent, a rate that reflects slackening import demand from a slowing U.S. economy. Hong Kong recorded a fiscal deficit of $1 billion for 2000 and projects a deficit of $8.5 billion for 2001.

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

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Hong Kong has made dramatic progress over the past several years in addressing the problem of optical disc piracy, starting with the creation of an anti-piracy task force in the Customs Department that facilitated an accelerated pace of raids against retail establishments and pirate manufacturers beginning in 1999. As a result of this crack down, piracy-related arrests reached 1,677 in 2001. Hong Kong courts supported this enforcement effort with 2,833 copyright and trade dress convictions in 2001, the majority of which brought prison sentences of six to twelve months. Hong Kong Customs and industry associations believe they have eliminated the network of underground factories that previously contributed to Hong Kong's piracy problem. However, U.S. industry is concerned with an increase in the number of pirated DVDs in Hong Kong as well as the increasing use of CD-burners to produce pirated CDs and VCDs. Moreover, the prevalence of IPR piracy elsewhere in the region makes Hong Kong vulnerable to a piracy resurgence if Customs' enforcement effort is relaxed.

The past year also brought the enactment of an amendment that criminalized the corporate use of unlicensed copyright materials from April 1, 2001. However, public opposition led the government in June to pass an amendment that suspended the criminal provisions of this law except for four categories of works: computer software, movies, television shows and sound recordings. The U.S. Government is closely monitoring a related proposal to relax Hong Kong's criminal sanctions on parallel imports of copyright products. Industry associations are concerned that removing these sanctions would bring a flood of counterfeit products imported outside licensed distribution channels. Reflecting its aggressive approach to IPR enforcement, Customs also has begun to tackle the emerging problem of Internet-based piracy by working with U.S. copyright associations to identify, raid and prosecute Hong Kong-based web sites offering pirate material via mail order or computer download. Ten court cases against Internet piracy thus far have produced eight convictions. U.S. officials have encouraged Hong Kong authorities to sustain the pace of street-level enforcement and to ensure that Hong Kong's very large optical disc production capacity is used only for legitimate products. In this regard, Hong Kong's recent efforts to increase liaison with mainland copyright licensing officials should help to ensure the legitimacy of optical disc orders from customers on the Chinese mainland.

U.S. companies are concerned that approvals of generic pharmaceutical products by the Hong Kong Department of Health may infringe upon existing patents. In addition, the industry believes that certain pirated pharmaceuticals enter Hong Kong and are then repackaged as legitimate products for sale.

SERVICES BARRIERS

Over the past five years Hong Kong has evolved into one of Asia's most open and competitive telecommunications markets. New licenses for long distance calling, international data transmission via satellite and cable and local wireless communications have produced a sharp reduction in costs and a proliferation of new services. This liberalization has also brought a significant flow of new U.S. investment in Hong Kong's information technology sector.

Unfortunately, as a result of Hong Kong's May 1999 decision to extend the current moratorium on additional local fixed-line operators until January 1, 2003, entrants for other services must negotiate backhaul and interconnection arrangements with the four incumbent local operators. New facilities-based international long-distance operators are also prohibited from purchasing undersea capacity on existing submarine cables before 2003, and are required to construct new cables to obtain such capacity. This moratorium has raised the cost of market entry and diluted the benefits to consumers from Hong Kong's telecommunications market opening. A June 2000 amendment to the Telecommunications Ordinance strengthened Hong Kong's authority to intervene in the market if dominant operators engage in anticompetitive behavior. In January 2002, the government issued a revised regulatory framework so that new market entrants can plan for the end of the moratorium. U.S. officials have actively encouraged Hong Kong to proceed as quickly as possible in moving towards full market opening by January 2003.

Foreign banks wishing to establish a branch in Hong Kong must have assets of at least $16 billion. In December 2001, the Hong Kong Monetary Authority (HKMA) issued a consultation paper proposing that foreign banks wishing to establish a branch in Hong Kong instead be required to hold $641 million in assets and $513 million in deposits. If implemented, this change would give foreign banks the same entry criteria as applied to locally incorporated banks. In November 2001, HKMA lifted all remaining restrictions on the number of branches that foreign banks can maintain.

Hong Kong's restrictive civil aviation policy limits U.S. cargo and passenger carrier services and has been a longstanding concern for the United States. U.S. officials are continuing efforts to open the market.

ELECTRONIC COMMERCE

Hong Kong places great importance on its role as an information technology and electronic commerce hub. The Legislative Council passed an electronic transactions bill providing a legal framework for electronic commerce in early 2000 and, in November 2000, Hong Kong launched a privately-managed electronic services delivery scheme under which government transactions are available on-line and at public Internet kiosks throughout the SAR. Hong Kong also is encouraging software and content developers to use the SAR as a base for regional operations and is investing heavily in technology parks.

OTHER BARRIERS

Pharmaceuticals

U.S. industry has expressed concerns about 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 patent owners' ability to market their products on a timely basis.