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TRADE SUMMARY

The United States trade deficit with Taiwan reached \$15.2 billion in 2001. U.S. goods exports in 2001 were \$18.2 billion, down 25.6 percent from 2000. Corresponding U.S. imports from Taiwan were \$33.4 billion, down 17.6 percent. Taiwan is currently the 10th largest export market for U.S. goods and the 5th largest market for U.S. agricultural products.

U.S. exports of private commercial services (i.e., excluding military and government) to Taiwan were \$4.7 billion in 2000 (latest data available), and U.S. imports were \$3.7 billion. Sales of services in Taiwan by majority U.S.-owned affiliates were \$3.9 billion in 1999 (latest data available), while sales of services in the United States by majority Taiwan-owned firms were \$582 million.

The stock of U.S. foreign direct investment (FDI) in Taiwan in 2000 was \$7.7 billion, up 18.8 percent from 1999. U.S. FDI in Taiwan is concentrated largely in the manufacturing, high-tech, finance and wholesale sectors.

Trade Ministers at Doha, Qatar approved Taiwan's WTO membership in November 2001. Taiwan became a member on January 1, 2002. As part of the extensive negotiations on its WTO accession, Taiwan agreed to address most of the trade barriers described in this section.

IMPORT POLICIES

Tariffs

In November 2001, the Legislative Yuan (LY) passed a comprehensive tariff schedule revision based on the results of Taiwan's bilateral and multilateral negotiations in connection with its accession to the WTO. Approximately 4,500 tariffs were reduced as of January 1, 2002, the

date Taiwan became a WTO member.

Taiwan's average nominal tariff rate has been lowered from the pre-accession level of 8.2 percent to 7.1 percent in 2002 and will fall to 4.2 percent by 2007.

In accordance with its WTO accession agreement, Taiwan announced in December 2001 tariff rate quotas (TRQs) for small passenger cars, three categories of fish and fish products, and 21 agricultural items, mainly chicken meat, pork belly, pork offal, oriental pears, and bananas. Products within the quota will have tariffs of 12 percent to 29 percent compared to 25 percent to 40 percent prior to WTO accession.

Taiwan is a participant in the Information Technology Agreement (ITA). Under the ITA, Taiwan agreed to phase out or reduce tariffs on information technology products. The majority of these reductions occurred before Taiwan's WTO accession. The remaining tariff cuts on ITA products were completed on January 1, 2002.

Licensing and Other Restrictions

In order to comply with its WTO commitments, Taiwan eliminated import controls on over 96 percent of 10,344 official import product categories in November 2001. Currently, 130 product categories require import permits from the Board of Foreign Trade. Imports of over 200 categories are "restricted", including ammunition and some agricultural products. These items can only be imported under special circumstances, and are effectively banned.

Prior to WTO accession, Taiwan banned or restricted imports of 43 agricultural and fish items. In January 2002, Taiwan liberalized imports of 18 of these agricultural and fish categories and implemented TRQs on an additional 24 items. Imports of rice, the 43rd agricultural category, were previously banned but are now subject to a minimum market

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access (MMA) quota covering both public- and private-sector imports. TRQ's on a number of products of interest to the United States (chicken meat, pork belly and offal, and poultry offal) will be eliminated on January 1, 2005 and imports will be fully liberalized. The rice MMA quota for 2003 will be renegotiated in 2002.

A new tobacco and alcohol management and tax system went into effect on January 1, 2002. In place of the previous tax on imports administered by the monopoly authority, Taiwan has agreed to impose an excise tax and to eliminate tariffs on imports of most spirits. At the same time, Taiwan liberalized private alcohol production and will liberalize private cigarette manufacturing by 2004.

Taiwan is in the midst of revising building codes and drafting standards for wood use in construction. While Taiwan publicly pursues a "Green Building" program, initial drafts have raised concerns in the U.S. wood products industry that the building codes and standards will be highly restrictive and not encourage wood use in construction. The draft standards also exclude use of southern pine, a very important U.S. source of wood products.

Local content requirements in the automobile and motorcycle industries will be lifted as part of Taiwan's WTO accession. The importation of motorcycles with engines larger than 150 cc was previously banned but will be liberalized in July 2002 as part of Taiwan's WTO commitments. In addition, Taiwan has agreed to set emissions standards for motorcycles over 700 cc in line with international standards. However, the U.S. motorcycle industry remains concerned with Taiwan's tariffs and other taxes on large motorcycles as well as Taiwan's restrictions on motorcycle access to certain tollways.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Industrial products (such as air-conditioning and refrigeration equipment) are subject to testing requirements before clearing customs. Tests on each shipment include "batch-by-batch inspection" (BBI) and "registration of product certification" (RPC). Taiwan plans to simplify its commodity inspections for imported goods in January 2003 by requiring BBI's for only a few products and RPC's for all others, including a requirement that they be accompanied by an ISO certification. U.S. industry expects these requirements will still unnecessarily raise costs for manufacturers, who already have well-established, recognized quality control procedures, by forcing them to apply for the ISO certification.

As a member of the WTO, Taiwan must abide by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (including notification of SPS measures). In 1999, Taiwan agreed to accept meat and poultry imports from plants approved by the USDA Food Safety Inspection Service. In 1999 and 2000, Taiwan agreed to accept Codex Alimentarius standards and, in some cases, U.S. pesticide residue standards for imported fruits and vegetables.

Taiwan authorities generally have taken a cautious approach to trade in bioengineered foods as embodied in the Department of Health's (DOH) February 2000 regulatory decisions. Risk assessment documentation on bioengineered corn and soybeans must be submitted to DOH by April 30, 2002, and mandatory labeling on certain corn and soybean food will commence in 2003. Mandatory labeling on all foods with over 5 percent bioengineered content will be required in 2005.

Registration and approval procedures for medical device imports are complex and time-

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consuming, and have been the subject of long-standing complaints by U.S. firms. The registration process requires redundant testing, and foreign manufacturers must re-register new products even though they are based on previously approved devices. In addition, it is unclear when local clinical trials are required for the review process nor is industry allowed to provide inputs or answer questions. The adoption of the U.S. Food and Drug Administration's (FDA) medical device classification system in June 2000 was welcomed by industry. However, Taiwan's implementation of this system will require re-registration of previously approved products. It is unclear whether DOH will agree to accept an FDA-issued Certificate for Foreign Export, which would alleviate delays in the approval process. Taiwan has identified both the medical device and pharmaceutical sectors as priorities for local development, resulting in Taiwanese agencies promoting the interests of local companies over foreign firms.

Taiwan's pharmaceutical registration process continues to prevent rapid market entry for new drugs that have already been approved in other industrial countries. The DOH announced in May 2001 a requirement for firms to submit voluminous validation data as part of the registration and approval process for both new drugs and those already on the market. Due to concerns raised by the United States and its industry, the DOH has postponed implementation of this requirement and are considering alternative proposals. The U.S. industry has proposed that Taiwan continue to accept Certificates of Pharmaceutical Products (CPPs) from the top ten major pharmaceutical-producing countries, utilize the Pharmaceutical Inspection Cooperation Scheme (PIC/S), and conduct onsite inspections where there is a specific concern. This proposal has not been accepted by the DOH to date. The DOH is also in the process of implementing the International

Council on Harmonization's (ICH) E5 guideline on ethnic factors, which could mitigate requirements for certain clinical trials. However, it is unclear whether DOH's implementation of ICH E5 will actually result in a reduction in the number of trials.

Taiwan uses various methods to inappropriately lower assigned prices on innovative drugs. Methods include the practice of "reference pricing," assigning a lower price when a drug is approved for an additional use, and arbitrarily lowering assigned prices. Significant differences exist between the functionality and quality of imported products and those made in Taiwan, yet Taiwan continues to restrict consumer choice and limit U.S. market access through disproportionate reimbursement of domestically manufactured drugs. In addition, Taiwan has announced it will soon adopt a "global budget" system for its hospitals, which also may negatively affect reimbursement prices for higher-quality pharmaceuticals.

GOVERNMENT PROCUREMENT

Taiwan has committed to adhere to the WTO Agreement on Government Procurement (GPA) as part of its WTO accession. To prepare for this commitment, a new Government Procurement Law (GPL) became effective in mid-1999. This marked an important first step towards open, fair competition in Taiwan's multi-billion dollar market for public procurement projects. In August 2001, a Memorandum of Understanding on Government Procurement between Taiwan and the United States was signed. The MOU ensured that Taiwan would be able to implement GPA procedural commitments. A number of these commitments were implemented immediately, and the remainder took effect upon Taiwan's accession to the WTO. In addition, Taiwan agreed to new procedures for independent review of complaints that may arise during tendering procedures, and

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binding arbitration of contract dispute procedures on major government contracts. The United States continues to monitor the government procurement environment.

EXPORT SUBSIDIES

The government provides incentives to industrial firms in export processing zones and to firms in designated "emerging industries." Some of these programs may have the effect of subsidizing exports. Taiwan has notified the WTO of these programs and, as part of its WTO accession, is amending or abolishing any subsidy programs inconsistent with WTO rules. Amendments of relevant laws, like the Statute for Establishment and Management of Economic Processing Zones and the Statute for Establishment of Scientific Industrial Parks, to eliminate improper subsidies went into effect upon Taiwan's WTO accession.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Intellectual property rights (IPR) protection continues to be a problem between the United States and Taiwan due to weaknesses in Taiwan's legal framework and law enforcement. The U.S. International Intellectual Property Alliance (IIPA) estimates that Taiwan's weak IPR protection caused trade losses to the United States of \$333 million in 2001. In preparing for its WTO accession, Taiwan took steps to amend its IPR laws in order to implement the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS). However, continued production of pirated optical media, failure to shut down counterfeit and IPR-infringing facilities, and the export of pirated and counterfeit goods overseas remains a major concern for the United States.

In preparation for Taiwan's accession to the WTO, the LY passed an amendment to

Taiwan's Patent Law in October 2001. This bill extended the term of patent protection to comply with TRIPs. Unfortunately, at the same time, the amendment also de-criminalized the infringement of invention patents.

A Copyright Law amendment also was approved in October of 2001. The new law treats "computer programs" as literary works conferring protection for a term of the life of the author plus fifty years. Necessitated by changes in the World Intellectual Property Organization (WIPO) Treaty, the Intellectual Property Office (IPO) has submitted for Executive Yuan approval new draft amendments of the Copyright Law. The amendments, which will require legislative approval, define public transmission and include Internet-related provisions, such as technological protection measures and electronic copyright for the management of information. U.S. Government and industry have expressed concerns that the latest drafts of these amendments may not adequately protect IPR in Taiwan.

The United States put Taiwan on the Special 301 Priority Watch List in April 2001 because it was dissatisfied in part with Taiwan's progress in approving optical disc legislation, its failure to shut down known commercial pirates, and its failure to curtail growing online piracy. In 2000, Taiwan had been on the Watch List. In response to U.S. and industry requests to protect optical media products and curtail the illegal manufacture of such goods, Taiwan passed an optical disc law on October 31, 2001. Manufacturers must apply for production licenses and report any changes to the authorities. Violators will face a maximum three-year jail sentence and a fine of approximately \$86,000. However, Taiwan's optical disk piracy situation remains a major concern of the United States. Once full implementation of Taiwan's optical disk legislation takes effect in May 2002, we look to

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Taiwan to reduce its continued high incidence of IPR piracy.

The United States is also concerned with the use of unauthorized software in government agencies and large businesses. The United States is working with Taiwan and industry to improve this situation. Taiwan has warned its agencies to use only authorized, legal software, but compliance remains an issue.

Taiwan's judiciary continues to experience difficulties in handling technical cases, and U.S. industry has complained about long delays in court cases. Often conflicting or unclear lines of bureaucratic authority stymie IPR enforcement efforts. The fact that only prosecutors can initiate cases and bring charges also limits active enforcement. Generally, U.S. IPR holders find that court procedures themselves constitute barriers and that penalties are inadequate.

Another area of concern is the lack of adequate protection for the packaging, configuration, and outward appearance of products, an area of IPR known as "trade dress." Despite provisions in Taiwan's Fair Trade law designed to protect unregistered marks and other packaging features, misleading copying of U.S. products by local manufacturers remains a problem. U.S. carpet manufacturers also have raised concerns about Taiwan companies copying their designs.

SERVICES BARRIERS

Financial Services

Taiwan's liberalization of its financial markets has been more rapid than the timetable it set in its February 1998 bilateral WTO accession agreement with the United States. In January 2001, the Securities and Futures Exchange Commission (SFEC) lifted the restriction on employment of foreigners by securities firms. Also in January 2001, the SFEC removed the

50-percent foreign ownership limit on listed companies. Although each qualified foreign institutional investor (QFII) is still subject to a limit on portfolio investment, the SFEC raised the limit in October 2001 from \$2 billion to \$3 billion. In May 2001, the SFEC relaxed qualification requirements for QFII's so that all active foreign portfolio investors (including banks, insurance companies, securities firms, and fund and pension fund management companies) became eligible to trade in securities in Taiwan. For QFII's, restrictions on capital flows have been removed. However, foreign individual investors are still subject to some limits on their portfolio investments and restrictions on their capital flows.

In June 1997, the annual limit on a company's non-trade remittances (inward or outward) was raised from \$20 million to \$50 million. Non-trade remittances by individuals are subject to an annual limit of \$5 million. There are no limits on trade-related remittances. New Taiwan Dollar (NTD)-related derivative contracts may not exceed one-third of a bank's foreign exchange position. To stabilize the foreign exchange market in the wake of regional financial turmoil, the Central Bank of China closed the non-deliverable forward (NDF) market to domestic corporations in May 1998; the NTD market remains open to foreign companies.

Taiwan is attempting to fulfill its May 1997 commitment to liberalize insurance premium rates and policy clauses. In November 2001, the Department of Insurance (DOI) permitted life insurance companies to sell investment-linked products. The DOI planned to allow life insurance companies to set their own premium rates in January 2002 if the companies had their own actuaries to determine such rates.

The DOI adopted a three-stage premium rate liberalization program for non-life insurance. Effective January 1, 2002, insurance firms were

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allowed to set premium rates for large face-value fire insurance policies and fire insurance policies sold to multinational corporations. The target date for total liberalization is January 2008, but the liberalization date for an individual insurance firm can be advanced if it has a good credit reputation and its capital adequacy ratio reaches 300 percent.

The DOI adopted a transparent approval procedure for insurance policies in January 2001. Prior approval is not required for products whose policy clauses are identical or very similar to existing products of other companies. New products are subject to prior approval, but the DOI's reviewing time may not exceed 90 days after it receives an application. If the DOI does not respond to an application within 90 days, the non-response becomes a de facto approval by the DOI.

Legal Services

Prior to its WTO accession, Taiwan limited foreign lawyers to the provision of consulting services. Since January 1, 2002, foreign lawyers have been allowed to practice law in Taiwan. Foreign lawyers are permitted to set up offices or enter into partnerships with local counterparts to practice local law. Foreign lawyers are required to pass the local bar examination to practice local law, and are required to use the Chinese language in oral and written communications when practicing before the court or prosecutors. When practicing foreign and international law, foreign lawyers are not subject to the language requirement. When practicing foreign law, foreign lawyers may not hire local lawyers or enter into partnerships with local lawyers, but they may do so when practicing international law. Despite these market opening actions, the United States is concerned that draft implementing regulations could unduly restrict the activities of foreign lawyers.

Films

On January 1, 2002, Taiwan lifted import limits on foreign films. A special fee levied on imported films was removed as was a limit on the number of theaters showing the same foreign film simultaneously in a municipality. A limitation of three screens in a multi-screen theater showing a single title was also eliminated.

Telecommunications Services

Taiwan issued licenses to three new fixed-line telecommunications companies during 2000. U.S. companies were initially very interested in this market. However, Taiwan's requirement that new entrants invest \$1.2 billion in facilities dissuaded U.S. and most other foreign telecommunications companies from seeking licenses at the time. Similarly, U.S. industry believes that Taiwan's current regulations contain paid-in capital requirements that should be reduced or eliminated. Taiwan plans to develop criteria regarding the issuance of new licenses, including those for domestic long-distance and international services, during 2002. New fixed-line operators also are reportedly having serious difficulties negotiating reasonable interconnection arrangements at technically feasible points in the network of the dominant carrier, Chungwha Telecom. These companies are concerned with the slow response of the regulator to resolve these difficulties. A proposed revision to regulations that fixed-line operators should not hamper other fixed-line operator's rights for interconnection has been submitted by the Directorate General of Telecommunications to the Executive Yuan. The United States continues to monitor Taiwan's progress in the telecommunications sector.

During 2001, several companies landed fiber-optic submarine cables in Taiwan. Taiwan has

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indicated that it will permit direct sale of their capacity to the four existing fixed-line license holders and other telecom businesses, including Internet Service Providers, in February 2002. While international submarine cable firms will be permitted to build their own backhaul facilities, or links from the cable landing site to network providers, they are limited to only one gateway.

INVESTMENT BARRIERS

Taiwan continues to relax investment restrictions in a host of areas, but foreign investment remains prohibited in key industries such as agriculture, broadcasting, power, and liquor and cigarette production. Foreign investors in the telecommunications sector are subject to a 60-percent ownership limit, including a 20 percent limit on direct foreign investment. Taiwan plans to further relax this restriction by raising the foreign ownership limit on direct foreign investment from 20 percent to 49 percent while keeping the 60 percent total cap. The Telecommunications Act must be amended to implement these changes. Liquor and cigarette production will be fully liberalized by 2004. Foreign ownership in airlines is limited to 33 percent. The 50-percent foreign ownership limit on air cargo forwarders and air cargo terminals was eliminated when Taiwan became a WTO member. Foreign ownership is limited to 50 percent in the independent power sector. The electricity transmission and distribution markets are reserved for the Taiwan Power Company, which also has a de facto monopoly over electricity generation. With passage of the Petroleum Enterprise Management Law in late September 2001, imports of gasoline and liquid natural gas (LNG) are expected to be opened to the private sector in January 2002 after 17 sets of enforcement rules are published.

ANTICOMPETITIVE PRACTICES

Taiwan Power Company (Taipower) and Chinese Petroleum Company (CPC), both state-owned companies, have state-sanctioned or de facto monopoly power over most sub-segments of the energy sector. Both companies take advantage of their strong positions by requiring vendors to sign contracts with terms and conditions that may be considered onerous or anticompetitive. For example, under the Power Purchase Agreement between Taipower and independent power plants (IPP), and the Gas Supply Contract between CPC and the same plants, Taipower has held IPPs responsible for ensuring an adequate fuel supply for electricity generation. At the same time, the sole fuel supplier to the IPPs, CPC, has refused to guarantee supply. Only one of the 15 licensed IPP projects has received international financing. As of January 2002, only two IPPs were in operation.

In the mobile phone market, U.S.-invested mobile service providers contend that the pricing practices of the former monopoly provider Chunghwa Telecom are unfair and predatory. They argue that Chunghwa has stifled competition from new entrants by repeatedly lowering its mobile charges through cross-subsidization of its mobile operations with profits from its fixed-line services, including domestic long distance and local service. Despite increased competition from new entrants to the fixed-line market and court rulings restricting Chunghwa's pricing cuts, U.S.-invested mobile service providers remain concerned that Chunghwa will continue to use unfair pricing practices to undermine the competition.

In the cable TV market, U.S. program providers contend that the island's two dominant multi-system operators (MSOS) frequently collude to inhibit fair competition. Control by the two MSOS of upstream program distribution deterred U.S. program providers from negotiating reasonable program fees. Cable

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distribution companies routinely violate agreements and local regulations by masking advertisements supplied by program providers and substituting their own local advertisements. Taiwan regulators have done little to prevent collusion and unfair trade practices, preferring to support local company interests. A recently passed bill amending the Cable TV law may allow the conglomerates to further control the market.

Corruption

Although corruption has been a source of complaints by U. S. business people, its impact on foreign direct investment decisions has been relatively less serious than in areas such as public procurement. We are not aware of cases where bribes were solicited to obtain approval for investment.

Corruption reportedly is most pervasive in the areas of environmental and waste management, public advertising, and government procurement, particularly in local-level construction tenders. The authorities generally investigate allegations of corruption and take action to penalize corrupt officials. Since its inauguration in May 2000, the Chen Administration has stepped up anti-corruption efforts, indicting legislators, city and county officials and former and current bank heads. Several Cabinet-level officials have been indicted and forced to step down in connection with past scandals. To strengthen the anti-corruption efforts, the Chen Administration plans to inaugurate an independent anti-corruption office. It has pledged to adopt a transparent system for public projects at the local level. While the anti-corruption effort has not yet led to systemic changes, it has improved the business environment for U.S. firms.

ELECTRONIC COMMERCE

Taiwan's approach to e-commerce and related issues is still evolving. A law protecting personal on-line data has been approved. A positive development is the Electronic Signature Law, passed by the Legislative Yuan in late October 2001. This law adopts the principles of the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Commerce and would recognize the legal validity of electronic contracts, records, and signatures. Still under discussion is a proposal to assess duties for software sold and downloaded over the Internet. If implemented, such a policy would appear to run counter to the WTO Declaration, adopted by Ministers at Doha in November 2001, that WTO Members would maintain their current practice of not imposing customs duties on electronic transmissions.