NEW ZEALAND

TRADE SUMMARY

The U.S. goods trade deficit with New Zealand was $216 million in 2012, shifting from a surplus of $408 million in 2011. U.S. goods exports in 2012 were $3.2 billion, down 9.7 percent from the previous year. Corresponding U.S. imports from New Zealand were $3.4 billion, up 8.7 percent. New Zealand is currently the 52nd largest export market for U.S. goods.

U.S. exports of private commercial services (i.e., excluding military and government) to New Zealand were $2.1 billion in 2011 (latest data available), and U.S. imports were $1.8 billion. Sales of services in New Zealand by majority U.S.-owned affiliates were $2.7 billion in 2010, while sales of services in the United States by majority New Zealand-owned firms were $270 million.

The stock of U.S. foreign direct investment (FDI) in New Zealand was $6.7 billion in 2011 (latest data available), up from $6.2 billion in 2010. U.S. FDI in New Zealand is mostly in the manufacturing, finance/insurance, and non-bank holding sectors.

Trade Agreements

New Zealand is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 10 other Asia-Pacific partners are seeking to establish a comprehensive, next-generation regional agreement to liberalize trade and investment. This agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; and serve as a potential platform for economic integration across the Asia-Pacific region. The TPP agreement will include ambitious commitments on goods, services, and other traditional trade and investment matters. It will also include a range of new and emerging issues to address trade concerns our businesses and workers face in the 21st century. In addition to the United States and New Zealand, the TPP negotiating partners currently include Australia, Brunei, Canada, Chile, Malaysia, Mexico, Peru, Singapore, and Vietnam.

IMPORT POLICIES

Tariff rates in New Zealand are generally low as a result of several rounds of unilateral tariff cuts that began in the mid-1980s. At 2.0 percent, New Zealand has one of the lowest average most favored nation (MFN) applied tariff rates among industrialized countries. In 2011, the average applied MFN tariff rate was 1.4 percent for agricultural products and 2.1 percent for industrial goods. In the WTO, New Zealand has bound 47.5 percent of its tariff lines at zero duty. New Zealand applies zero duty on 64.7 percent of its tariff lines. The New Zealand government has stated that tariff rates will be reviewed in 2013, but will remain at their current levels until at least 2015.

GOVERNMENT PROCUREMENT

On August 15, 2012, New Zealand announced its intention to join the WTO Government Procurement Agreement, with the accession process expected to be completed within two years. New Zealand is currently an observer to the WTO Committee on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

New Zealand generally provides for strong intellectual property rights protection and enforcement. Recent developments include the introduction of the Patents Bill (to replace the Patents Act 1953). The latest version of the draft bill contains improvements to New Zealand's patent system. The United States had concerns over certain elements, including language in an earlier draft that excluded computer programs from patent eligibility, which departs from standards in other developed economies. The revised bill addressed this concern, effectively including software within the patent regime, although New Zealand reportedly is facing some pressure to retain the exclusion. It is unclear when the bill might be enacted into law.

However, the revised bill lacks other provisions that would bring New Zealand's patent law in line with international best practices. For instance, the bill does not include provisions allowing for patent term restoration, which would enable rights holders to recover the effective patent term lost due to delays in the marketing approval process. The absence of such a provision makes it more difficult for innovators to recoup their investments in developing products, such as medical products, that must complete a marketing approval process before they can be sold.

In April 2011, the New Zealand Parliament passed the Copyright (Infringing File Sharing) Amendment Bill, which established a mechanism for New Zealand to fight online piracy. The legislation created a framework for a new regime designed to deter illegal file sharing. Although many rights holders were initially optimistic about the legislation, they have since expressed concerns regarding implementing regulations issued by the Ministry of Economic Development, which permit Internet service providers to charge up to NZ$25 (approximately $21) per issuance of an infringement notice. The cost has deterred some rights holders from using the system and is currently under review by the New Zealand government following submissions by stakeholders.

The United States continues to encourage the New Zealand government to accede to and implement the World Intellectual Property Organization (WIPO) Performance and Phonograms Treaty and the WIPO Copyright Treaty. New Zealand was an active participant in the Anti-Counterfeiting Trade Agreement (ACTA) negotiations, and signed the ACTA in October 2011. The ACTA establishes an international framework that will assist parties in their efforts to effectively combat the infringement of intellectual property rights, in particular the proliferation of counterfeiting and piracy, which undermines legitimate trade and the sustainable development of the world economy.

SERVICES BARRIERS

Telecommunications

Mobile termination rates (MTRs), a charge mobile network suppliers levy on other operators for completing calls to the mobile network's subscribers, have until recently been unregulated in New Zealand. New Zealand's dominant telecommunications companies, Vodafone and Telecom, have historically maintained termination rates among the highest of all industrialized countries. The incumbents appear to have used these rates to put new, smaller mobile entrants at a competitive disadvantage. On a national basis, Vodafone and Telecom control 51 percent and 46 percent of the market, respectively.

In May 2011, the New Zealand Commerce Commission issued a decision requiring cost-based rates for MTRs, thereby increasing competition and reducing wholesale termination rates for mobile calls and text messages. Pursuant to the decision, termination rates for text messages were immediately reduced, and mobile call termination rates were reduced in early 2012, with additional rate reductions mandated by 2014, resulting in rates that are now very competitive by global standards.

INVESTMENT BARRIERS

Investment Screening

New Zealand screens any foreign investment that would result in the acquisition of 25 percent or more of ownership in, or of a controlling interest in, "significant business assets" (defined as assets valued at more than NZ$100 million (approximately $84 million)). In addition, it screens foreign investors or entities that acquire 25 percent or more of a fishing quota, either directly or through the acquisition of a company that already possesses a quota, as well as acquisitions of land defined as "sensitive" by the Overseas Investment Act (OIA) 2005.

In September 2010, the New Zealand government announced new implementing rules under the OIA, which provide New Zealand government ministers increased power to consider a wider range of issues when evaluating overseas investment applications involving sensitive land (such as farmland greater than five hectares, land adjoining the foreshore, or conservation land). Under the rules, two additional factors are evaluated under a benefit test: an "economic interests" factor that allows ministers to consider whether New Zealand's economic interests are "safeguarded," and a "mitigating" factor that enables ministers to consider whether an overseas investment provides adequate opportunities for New Zealand oversight or involvement.

OTHER BARRIERS

Pharmaceuticals

The Pharmaceutical Management Agency (PHARMAC), created in 1993, determines which medicines to fund for use in community and public hospitals, negotiates prices with pharmaceutical companies, and sets subsidy levels and reimbursement criteria. U.S. stakeholders have expressed strong concerns about PHARMAC's regulatory process, including the lack of transparency, timeliness, and predictability in the funding process and unreasonable delays in reimbursing new products. These longstanding concerns have been exacerbated as PHARMAC expands into areas of funding that were previously unregulated, including medical devices. PHARMAC reportedly is working to improve transparency and increase stakeholder involvement in its processes.