

NEW ZEALAND

TRADE SUMMARY

The U.S. goods trade surplus with New Zealand was \$411 million in 2011, an increase of \$355 million from 2010. U.S. goods exports in 2011 were \$3.6 billion, up 26.7 percent from the previous year. Corresponding U.S. imports from New Zealand were \$3.2 billion, up 14.4 percent. New Zealand is currently the 47th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to New Zealand were \$1.6 billion in 2010 (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 2009, while sales of services in the United States by majority New Zealand-owned firms were \$268 million.

The stock of U.S. foreign direct investment (FDI) in New Zealand was \$6.9 billion in 2010 (latest data available), up from \$6.3 billion in 2009. U.S. FDI in New Zealand is mostly in the finance/insurance and manufacturing sectors.

In December 2009, the United States announced its intention to enter into an Asia-Pacific trade agreement called the Trans-Pacific Partnership (TPP), with the objective of shaping a high standard, broad-based regional agreement. This agreement will create a potential platform for economic integration across the Asia-Pacific region, a means to advance U.S. economic interests with the fastest-growing economies in the world, and a tool to expand U.S. exports, which are critical to U.S. economic recovery and the creation and retention of high-paying, high-quality jobs in the United States. In addition to New Zealand, the TPP negotiating partners currently include Australia, Brunei, Chile, Malaysia, Peru, Singapore, and Vietnam. Japan, Canada, and Mexico also have expressed interest in joining the negotiations.

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 2.1 percent, New Zealand has one of the lowest average most favored nation (MFN) applied tariff rates among industrialized countries. The average applied MFN tariff rate was 1.5 percent for agricultural products in 2009 and 2.2 percent for industrial goods. In 2010, approximately 95 percent of all imports to New Zealand (by value) entered duty free. Approximately 47.5 percent of New Zealand's MFN tariff lines are bound at zero duty rates, and 63.1 percent of lines are applied at zero. The New Zealand government has stated that import tariffs will not be reviewed until 2013 and will remain at their current levels until at least 2015.

GOVERNMENT PROCUREMENT

New Zealand is an observer to the WTO Committee on Government Procurement. It is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

New Zealand generally provides for strong intellectual property rights (IPR) protection and enforcement. Recent developments include the introduction of the Patents Bill (to replace the Patents Act 1953). Although the draft bill will significantly help improve New Zealand's patent system, the United States has concerns over certain elements, including a clause providing that computer programs are excluded

from patent eligibility. This clause departs from patent eligibility standards in other developed economies.

In addition, the proposed bill does not include other provisions that would bring New Zealand's patent law into line with international best practices. For instance, the bill does not include provisions allowing for patent term restoration, which would enable rights holders to recoup 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.

On April 14, 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 over the legislation, they have since expressed concerns that subsequent implementing regulations issued by the Ministry of Economic Development, which permit Internet service providers to charge up to NZ\$25 (\$21) per issuance of an infringement notice. The cost has deterred some rights holders from using the system.

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 long 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, and 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 June 2009, following an inquiry, the New Zealand Commerce Commission issued a draft determination that cost-based MTR regulation was warranted. Telecom and Vodafone subsequently offered to lower MTRs over the following four years in exchange for the New Zealand government foregoing regulation, which the government was poised to do. When Vodafone announced a new product combining heavily discounted on-net retail prices set below its proposed wholesale MTRs, and off-net prices up to 15 times higher, the New Zealand government concluded that the voluntary rates were unreasonably above cost and competition would be stifled if the proposals were accepted. On August 4, 2010 New Zealand's Minister for Communications formally accepted the Commerce Commission's recommendation to regulate termination rates, adding mobile termination access services to Schedule 1 of the Telecommunications Act. The Commerce Commission went through a process in late 2010 and early 2011 to set wholesale access prices and determined other pro-competitive conditions, potentially regarding on-net/off-net retail price discrimination, with which mobile carriers must comply. On May 5, 2011, the Commerce Commission released its decision on MTRs, which will result in increased competitive pressure and reductions in the wholesale termination rates for mobile calls and text messages.

According to the decision, termination rates for calls will be reduced to less than NZ\$0.04 by April 1, 2012 and additional reductions by 2014. Termination rates for text messages were reduced to NZ\$0.06 from May 6, 2011.

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 (\$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.

On September 27, 2010, the New Zealand government announced new implementing rules under the OIA 2005, which provide New Zealand government ministers increased power to consider a wider range of issues when assessing 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 assessed 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, negotiates prices with pharmaceutical companies, and sets the subsidy levels and conditions. 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 for unreasonable delays in reimbursing new products. These longstanding concerns have been exacerbated as PHARMAC expands into areas of funding that were previously unregulated. PHARMAC is reportedly working to improve transparency and increase stakeholder involvement in its processes.