

NEW ZEALAND

TRADE SUMMARY

The U.S. goods trade deficit with New Zealand was \$595 million in 2008, an increase of \$296 million from \$299 million in 2007. U.S. goods exports in 2008 were \$2.6 billion, down 8.7 percent from the previous year. Corresponding U.S. imports from New Zealand were \$3.2 billion, up 1.7 percent. New Zealand is currently the 58th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to New Zealand were \$1.5 billion in 2007 (latest data available), and U.S. imports were \$1.7 billion. Sales of services in New Zealand by majority U.S.-owned affiliates were \$3.0 billion in 2006 (latest data available), while sales of services in the United States by majority New Zealand-owned firms were \$592 million.

The stock of U.S. foreign direct investment (FDI) in New Zealand was \$5.4 billion in 2007 (latest data available), down from \$6.0 billion in 2006. U.S. FDI in New Zealand is concentrated largely in the manufacturing and finance/insurance sectors.

FREE TRADE AGREEMENT (FTA)

In September 2008, the United States announced its intention to begin negotiations to join the Trans-Pacific Strategic Economic Partnership agreement, a high-standard FTA between New Zealand, Singapore, Chile, and Brunei Darussalam, intended to serve as a vehicle for Trans-Pacific economic integration. Shortly after the U.S. decision to join the negotiations, Australia, Peru, and Vietnam indicated their interest in participating as well.

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. The New Zealand government announced in September 2003, that it would resume unilateral tariff reductions starting July 1, 2006. Under this unilateral tariff reduction program, New Zealand has reduced its highest tariff rates to 12.5 percent and will reduce these tariffs to 10 percent by July 1, 2009. These top rates apply mostly to clothing, footwear, and carpeting. *Ad valorem* tariffs on all other dutiable goods were reduced to 5 percent starting on July 1, 2008.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Regulations on Agricultural Biotechnology

New Zealand's Environmental Risk Management Authority (ERMA) is responsible for assessing and approving applications to introduce new organisms, including those produced through agricultural biotechnology. Since 1998, ERMA has granted approximately 15 approvals for contained field trials of biotechnology crops. Of these, approximately five have been completed, six are still ongoing, and the remaining approvals are either no longer in effect or are unused for various reasons. However, to date, there have been no applications for either a conditional or a full release of products derived by the use of agricultural biotechnology in New Zealand, which many attribute to the onerous, costly, and unproven nature of the regulatory framework. The United States has raised concerns about New Zealand's regulatory policies regarding biotechnology crops in meetings under the United States-New Zealand

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Trade and Investment Framework Agreement (TIFA) and other fora and will continue to discuss these issues with New Zealand.

Foods with biotechnology content can be offered for sale and consumption in New Zealand after being assessed and approved by Food Standards Australia New Zealand (FSANZ). FSANZ is responsible for setting food standards that govern the content and labeling of foods sold in both New Zealand and Australia, such as food composition, labeling and contaminants, including microbiological limits. A technical regulation for foods produced using agriculture biotechnology came into effect in mid-1999. The standard prohibits the sale of food produced using genetic engineering unless such food has been assessed by FSANZ and listed in the food code standard. As of July 2008, FSANZ has received a total of 43 applications for the assessment of biotechnology modified foods. Of these, 35 applications had been approved and six are under review. Two requests were withdrawn.

Labeling of Biotechnology Foods

Mandatory labeling requirements for biotechnology foods took effect in December 2001. With few exceptions, a food in its final form that contains detectable DNA or protein derived from genetic engineering must be so labeled. Many companies, including manufacturers, packers, importers, and retailers, find these regulations to be burdensome. New Zealand food legislation requires businesses to exercise due diligence in complying with food standards, which generally requires that they maintain a paper or audit trail similar to a quality assurance system.

Sanitary and Phytosanitary Measures (SPS)

New Zealand maintains a strict regime of SPS controls for virtually all imported animal and plant products. The United States and New Zealand continue to discuss specific SPS issues that impact trade in both directions as part of the annual TIFA dialogue and in other fora.

In July 2006, Biosecurity New Zealand adopted a new system for the funding and management of import health standards. While the new system is more transparent, it is resource intensive and Biosecurity New Zealand is still only able to complete about 10 percent of the requests for new import health standards. Biosecurity New Zealand announced in 2007 that it would only take applications for the development of import health standards from the competent authorities of exporting nations and not from domestic constituents. It is currently conducting a review of current procedures with a view toward streamlining them in the future.

At present, Biosecurity New Zealand is working on several import health standards for U.S. products including stone fruit (plums, peaches, nectarines, and apricots) from the Pacific Northwest, pork, cherries, and lemons.

On March 3, 2006, the United States requested market access for stone fruit from the Pacific Northwest. (Stone fruit from California is currently allowed entry into New Zealand.) Biosecurity New Zealand put the U.S. request on its work program in 2007 and expects to announce a draft import health standard in early 2009.

New Zealand currently maintains restrictions on U.S. pork meat and meat products due to concerns related to the Porcine Reproductive and Respiratory Syndrome (PRRS) virus. Having concluded a draft import health standard, New Zealand is proposing an import standard that will allow unrestricted importation of uncooked, consumer-ready, high-value cuts of pork meat from the United States. However, New Zealand is maintaining restrictions on other types of pork meat and meat products, as it

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asserts that the PRRS virus risks associated with these products is non-negligible. The import health standard is expected to be finalized in 2009.

New Zealand continues to suspend imports of U.S. poultry meat (except canned product) due to its restrictions on countries that have infectious bursal disease – a disease primarily affecting young chickens that is foreign to New Zealand and present in most poultry exporting countries of the world.

NZFSA requires case-by-case assessment of U.S. bovine products before importation due to concerns over Bovine Spongiform Encephalopathy (BSE). In February 2007 NZFSA announced a move to modernize its food safety importing requirements for beef and beef products in light of the new science that surrounds BSE. Among other things, the new measures enable New Zealand to categorize the BSE risk status of countries exporting to New Zealand. Once these measures are finalized, the current requirement to assess U.S. products on a case-by-case basis is expected to be eliminated.

GOVERNMENT PROCUREMENT

New Zealand is not a signatory to the WTO Government Procurement Agreement (GPA), but it became an observer to the WTO Committee on Government Procurement in December 2008. New Zealand is keeping the issue of commencement of accession to the GPA under review.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

New Zealand is an active participant in efforts to strengthen international IPR enforcement by participating in the negotiations on a multilateral Anti-Counterfeiting Agreement.

Copyrights

In April 2008, New Zealand passed the Copyright (New Technologies) Amendment Act, which advances copyright protection in New Zealand. The copyright industry continues to express concern over the standards of New Zealand's technology protection measures.

Patent Protection

New Zealand has introduced a new bill into Parliament that will replace an older law regarding patents. This bill will be referred to a Select Committee, which will likely seek public submissions as part of its consideration of the Bill in early 2009.

The Patent term will remain at twenty years from filing with no provision for extension. The Bill will remove the 1953 Act provision for pre-grant opposition and will introduce a "re-examination" provision which can be invoked at any time after acceptance of an application, a provision potentially of concern, as it differs from international practice. Re-examination will be limited to issues of novelty and inventive step based on documentary prior art. The 1953 Act post-grant opposition provisions will be expanded, and it will be possible to invoke post-grant opposition at any time during the patent term. The Bill also provides for the establishment of a Maori Advisory Committee to advise the Commissioner of Patents where patent applications involve traditional knowledge and indigenous plants and animals.

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SERVICES BARRIERS

Media

Radio and television broadcasters have adopted voluntary local content targets after the New Zealand government made it clear that it would otherwise pursue mandatory quotas. New Zealand government officials have said they are sensitive to the implications of quotas under the GATS, but nonetheless they reserve the right to impose them.

Telecommunications

The Economic Development Minister announced in April 2007, that he would accept voluntary but enforceable commitments from Vodafone and Telecom to reduce mobile termination rates, once among the highest of all OECD countries, to more reasonable levels. The companies also committed to pass through reductions to their customers when benefitting from each other's reductions. Based on such commitments and over a five-year period, Telecom has offered to reduce its mobile termination rate to 7 U.S. cents per minute (cpm), and Vodafone has offered to reduce its mobile termination rate to 8 cpm by April 2011. This outcome contrasts with the 2005 Commerce Commission recommendation that rates be reduced immediately to 9 cpm by 2006, which was not implemented due to legal challenges brought by mobile operators.

INVESTMENT BARRIERS

Investment Screening

New Zealand maintains investment screening requirements, but has not blocked any foreign investment approvals for business investment since 1984. New Zealand's Overseas Investment Office (OIO) screens foreign investments that exceed NZ\$100 million (\$52 million) and represent 25 percent or more of the equity in a New Zealand enterprise, foreign investments in land defined as sensitive within the Overseas Investment Act 2005, and foreign investment in fishing. In August 2005, the New Zealand government enacted The Overseas Investment Act that liberalized the investment screening regime by refocusing screening on assets of critical interest. However, investors still are required to satisfy an "investor test," including that they are of good character, are not excluded from entering New Zealand under the Immigration Act, and can display both financial commitment and business acumen. The United States will continue to raise concerns about the continued use of this screening mechanism.

OTHER BARRIERS

Pharmaceuticals

The New Zealand Medicines and Medical Devices Safety Authority (Medsafe), a business unit of the Ministry of Health, regulates therapeutic products in New Zealand. Medicines must be approved by Medsafe before they can be marketed in New Zealand, or considered for subsidy by New Zealand's Pharmaceutical Management Agency (PHARMAC), a stand alone Crown entity that administers the Pharmaceutical Schedule that lists medicines that benefit from pricing subsidies from the New Zealand government. Completed applications for marketing approval for prescription medicines received by Medsafe since August 2006 have taken an average of 198 days to process.

PHARMAC managed expenditures account for 80 percent of total New Zealand spending on prescription drugs. New Zealand does not restrict the sale of pharmaceuticals that do not receive a pricing subsidy,

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but most private medical insurance companies will not cover the cost of these medicines and doctors are often reluctant to prescribe them. As a result, pharmaceutical companies may choose not to market a medicine in New Zealand if it does not receive a government price subsidy. U.S. industry continues to have concerns about the transparency, predictability, and accountability of PHARMAC's processes.