NEW ZEALAND

TRADE SUMMARY

The U.S. goods trade deficit with New Zealand was $397 million in 2009, down $240 million from 2008. U.S. goods exports in 2009 were $2.2 billion, down 14.7 percent from the previous year. Corresponding U.S. imports from New Zealand were $2.6 billion, down 19.3 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 $1.8 billion in 2008 (latest data available), and U.S. imports were $1.7 billion. Sales of services in New Zealand by majority U.S.-owned affiliates were $3.3 billion in 2007 (latest data available), while sales of services in the United States by majority New Zealand-owned firms were $184 million.

The stock of U.S. foreign direct investment (FDI) in New Zealand was $5.3 billion in 2008 (latest data available), down from $5.4 billion in 2007. U.S. FDI in New Zealand is mostly in the manufacturing and finance/insurance sectors.

In December 2009, the United States announced its intention to enter into a regional 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. The TPP negotiating partners currently include Australia, Brunei Darussalam, Chile, New Zealand, 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. New Zealand now has one of the lowest average Most Favoured Nation (MFN) applied tariff rates among industrialized countries at just 2.4 percent (down from 4.1 percent in 2002). The average applied MFN agricultural tariff was 1.8 percent in 2009. In 2008, more than 73 percent of imports by value to New Zealand entered duty-free.

New Zealand has also taken significant steps to simplify its tariffs. In October 2008, a new tariff schedule was introduced, which consists mainly of three *ad valorem* rates (free, 5 percent, and 12.5 percent) and six specific rates. On industrial products, 195 specific tariffs were replaced with *ad valorem* rates.

GOVERNMENT PROCUREMENT

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

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

New Zealand generally has a strong record on IPR protection and is an active participant in international efforts to strengthen IPR enforcement globally. It is a party to nine World Intellectual Property Organization (WIPO) treaties and actively participates in the TRIPS Council. The United States continues to encourage the government of New Zealand to accede to and implement the WIPO Performance and Phonograms Treaty and the WIPO Copyright Treaty.

In April 2008, New Zealand's Parliament passed the Copyright (New Technologies) Amendment Act 2008, No 27 ("the 2008 Act"), which amends the Copyright Act 1994. The 2008 Act is intended to update the country's original copyright law in light of advances in digital technology. Among other things, the 2008 Act seeks to clarify the liability of Internet Service Providers (ISPs) regarding online infringement. Section 92A of the Copyright Act 1994, as added by the 2008 Act, has not yet been implemented. This provision would have required ISPs to adopt and reasonably implement a policy that provides for the termination of the accounts of repeat IP infringers. However, discussions among the ISPs and copyright holders failed to reach consensus on a code of practice in this area. The New Zealand government is now redrafting Section 92A. It is expected that the legislation will be introduced in Parliament in early 2010.

In July 2008, a bill to update New Zealand's patent regime was introduced in Parliament which, if enacted, will replace the current Patents Act 1953. The proposed legislation includes a number of changes, including modifications to patent examination and opposition procedures, the establishment of a Maori Advisory Committee to advise the Commissioner of Patents where patent applications involve traditional knowledge and indigenous plants and animals, and reforms of the regulatory environment for patent lawyers. U.S. industry continues to urge the New Zealand government to include provisions in the legislation that would provide for the restoration of the effective patent term for pharmaceutical products lost due to delays related to regulatory approval. The current draft legislation does not contain such provisions.

SERVICES BARRIERS

Telecommunications

New Zealand's dominant telecommunication companies, Vodafone and Telecom, have historically had fixed-to-mobile termination rates that were among the highest of all industrialized countries. In 2007, these companies voluntarily committed to reduce their rates by 2011. The Commerce Commission made a recommendation on both fixed-to-mobile and mobile-to-mobile termination rates in February 2010. The Minister responsible for telecommunications is expected to make a final decision on that recommendation in early 2010. Some restrictions exist on foreign ownership and control of Telecom.

INVESTMENT BARRIERS

Investment Screening

New Zealand generally maintains an open door to foreign investment, and the United States is New Zealand's second largest source of foreign investment. There are no tax advantages for domestic firms over foreign investors and there are no restrictions on the repatriation of funds. However, New Zealand screens foreign investment that falls within certain criteria, based on the requirements of the Overseas Investment Act 2005. New Zealand's Overseas Investment Office (OIO) screens foreign investments that would result in the acquisition of 25 percent or more ownership of, or a controlling interest in, "significant business assets" (defined as assets valued at more than NZ$100 million). In addition, OIO 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, and acquisitions of land defined as "sensitive" by the Overseas Investment Act 2005. As part of this screening, investors are required to satisfy an 'investor test', which includes a determination 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 New Zealand government is currently reviewing the Overseas Investment Act

2005 for ways to improve its design and implementation, to make it more transparent and predictable for investors.

OTHER BARRIERS

Pharmaceuticals

The U.S. pharmaceutical industry has voiced strong concerns over access to New Zealand's pharmaceutical market and some U.S. pharmaceutical companies have left the market since the Pharmaceutical Management Agency (PHARMAC) was created in 1993. PHARMAC administers the Pharmaceutical Schedule, which lists medicines that are entitled to subsidies from the New Zealand government.

Among other things, industry representatives criticize PHARMAC's lack of transparency and predictability in the reference pricing process and the onerous approval processes and delays in reimbursing new products. While New Zealand does not restrict the sale of approved pharmaceuticals that do not receive a pricing subsidy, 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. Because of such concerns, PHARMAC is working to improve transparency and increase stakeholder involvement in its processes.