

# NEW ZEALAND

In 1997, the U.S. trade surplus with New Zealand was \$378 million, \$115 million higher than in 1996. The U.S. remained New Zealand's third largest trading partner in 1997, its second largest supplier and third largest export market. U.S. merchandise exports to New Zealand were \$2.0 billion in 1997, up \$230 million, or 13.3 percent, over the previous year. U.S. imports from New Zealand for 1997 totaled \$1.6 billion, up \$114 million (7.8 percent) over the previous year.

The stock of U.S. foreign direct investment was \$5.5 billion in 1996, 13.9 percent more than in 1995. U.S. direct investment in New Zealand is largely concentrated in telecommunications, forestry and paper, food processing, manufacturing, transportation, and petroleum.

## Overview

New Zealand is a valued partner in the global effort to reduce barriers to the free flow of trade and investment, working closely with the U.S. in the WTO, APEC and other multilateral fora. New Zealand's reform process has been largely unilateral, and it maintains an open trade and investment regime. Since the government's deregulation and privatization program in the late 1980s, New Zealand has become a growing destination for U.S. foreign direct investment. The New Zealand-U.S. commercial relationship has also expanded rapidly. The new National-New Zealand First Coalition Government led by Prime Minister Jenny Shipley (sworn in on December 8, 1997) appears committed to continuing New Zealand's economic reforms. Accordingly, Commerce Minister John Luxton announced December 18 that auto tariffs (currently at 22.5 percent) would fall to zero on December 1, 2000. Already scheduled to come down annually by 2.5 percentage points, tariffs will still be at 15 percent on July 1, 2000 before their one-step removal six months later. All other New Zealand tariffs will be reviewed by the government in 1998; the government has already announced its intention to abolish all remaining tariffs well before New Zealand's APEC commitment of 2010.

## STANDARDS, TESTING, LABELING, AND CERTIFICATION

### Environmental Regulations

New Zealand's first comprehensive environmental protection legislation, the Hazardous Substances and New Organisms (HSNO) Act, was passed by Parliament in 1996. A new regulatory body, the Environmental Risk Management Authority (ERMA) will assume responsibility for assessments of genetically modified organisms (GMO's) and establish a new product registration system for chemical and other hazardous substances sold in New Zealand.

Chemicals and hazardous substances: ERMA criteria for toxicity thresholds are being developed with the technical assistance of the industry (both domestic and foreign). Originally scheduled to enter into force on April 1, 1998, hazardous substances regulations are now scheduled to begin October 1, 1998 to take into account further comment by U.S. and European chemical firms. ERMA is already conducting internal trials on industry application procedures and plans nationwide seminars on compliance for firms in July. Others are planned right before the first public trials begin in October. ERMA is also considering sending representatives

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to the U.S. and Europe for information sessions with foreign firms operating in the New Zealand market. New Zealand's stated aim is to establish a user-friendly product registration system that is compatible with and will utilize chemical data collection that firms already carry out to meet registration requirements in other developed markets. The government estimates that 99 percent of the time, chemicals will fall into this category. Only for highly toxic chemicals will registration requirements become more complicated. The Government currently plans to share with firms the compliance costs of the new regulations.

Genetically modified organisms: Also under HSNO authority, ERMA will assume responsibility for assessments of new organisms introduced into New Zealand. GMO review will become compulsory when enabling regulations are implemented on July 1, 1998. Until then the GMO review function will continue to be performed by New Zealand's Interim Assessment Group (IAG). Since its inception in 1986, the IAG has evaluated more than 40 applications involving the use of GMOs outside contained facilities. However no procedures have been created which would allow for the full release of a GMO, including importation of transgenic products such as U.S. soybeans.

Foods from GMOs: In late February, the Australia-New Zealand Food Authority (ANZFA) made recommendations on a revised standard to the Australia-New Zealand Food Standards Council. The New Zealand government accepted the recommendations, but they have not yet come into force. The ANZFA final recommendations represent a positive step on issues the United States has been discussing with New Zealand, particularly use of science-based policies to regulate foods produced using gene technology. New Zealand has concluded that labelling should be required for foods produced using gene technology specifically when those foods are not substantially equivalent to their existing conventional counterparts. We look forward to discussing with New Zealand how it intends to implement the safety standard it has set for these new products.

### **Sanitary and Phytosanitary Controls**

New Zealand maintains a strict regime of sanitary and phytosanitary control for virtually all imports of agricultural products. Opportunities for greater access to the New Zealand market remain limited for some U.S. agricultural products, while other products are subject to rigid pre-clearance requirements. Access for some U.S. agricultural products has improved over the last year or is improving.

Poultry: New Zealand maintains a complete prohibition on all imports of uncooked poultry. In June 1996 the Ministry of Agriculture published a qualitative review which characterized the disease risk of imported poultry as negligible. However, objections from the New Zealand poultry industry have prompted the Ministry to carry out a more detailed risk assessment, which is expected to be complete in 1998.

Salmon: A draft risk assessment released in September 1997 by the Ministry of Agriculture notes that "a continuing prohibition on imports of wild Pacific salmon from the United States is inappropriate." Following a review of technical comments to the draft, the risk assessment is expected to be published in final and a U.S. import health standard issued shortly thereafter.

## **SERVICES BARRIERS**

**Telecommunications**

While prospective entrants into New Zealand's deregulated telecommunications market face no legal restrictions, there has been a history of telecommunications market access complaints. When the government of New Zealand corporatized, then privatized the industry, it left all local access responsibility in the hands of Telecom New Zealand. Since then, whenever another telecommunications firm has wanted access to telephone numbers or local access, they have had to deal directly with Telecom -- not the government or a regulatory authority. If the firm cannot reach an agreement with Telecom, its only appeal has been through the court system for alleged breaches of New Zealand's commerce and/or fair trading acts. (Telecom New Zealand was sold in 1990 to a consortium of Ameritech and Bell Atlantic of the U.S. and two smaller domestic partners. In December 1997, Ameritech announced that it will sell its 24.95 percent stake in Telecom, while equal partner Bell Atlantic plans to offer an exchangeable note issue with the option of later exchanging the notes for shares.) New telecommunications market entrants have repeatedly challenged, in New Zealand courts, Telecom New Zealand's alleged abuse of its market dominance. One of the major issues has been the conditions for interconnection of competitors to the network owned and operated by Telecom. Agreements have been reached in areas such as international services, customer premises equipment, resale, and cellular services. New entrants have also sought agreements with Telecom that would enable telephone customers that change carriers to retain their old phone numbers. After 18 months of negotiation, Clear reached a number portability agreement with Telecom in November 1997, following Telecom's similar agreement with Australia's Telstra. Clear Communications and Bell South have also begun court challenges to what they charge are Telecom's anti-competitive "bundling" of its monopoly and competitive services; use of Telecom software receiving interconnection traffic data to attract competitors' customers; and flipping long-distance customers from others' long-distance services to Telecom's without notification or agreement by Clear's clients.

**Pharmaceutical Management Agency (Pharmac)**

Pharmac was established in 1993 as a limited liability company to manage the purchasing or funding of pharmaceuticals for the four public regional health authorities (RHAs). Replacing the RHAs in 1996, the single Transitional Health Authority (THA) is responsible for purchasing health services and supplies for all New Zealanders. Owned by the THA, Pharmac administers the national pharmaceutical schedule on its behalf. The schedule lists medicines subsidized by the government and the reimbursement paid for patients for each pharmaceutical. The schedule also specifies conditions for prescription of a product listed for reimbursement.

At its creation, Pharmac was exempted from New Zealand's normal competition laws, an exemption upheld in a 1997 High Court ruling in an umbrella court case brought against Pharmac by New Zealand's Researched Medicines Industry (RMI) Association. (That decision is under appeal.) While New Zealand does not restrict the sale of non-subsidized pharmaceuticals in New Zealand, private medical insurance companies will not cover unsubsidized medicines. Thus, Pharmac effectively controls what prescription medicines will be sold in New Zealand and, to a large extent, at what price they will be sold.

Pharmaceutical suppliers complain that it is difficult to list new chemical entities and line extensions on Pharmac's schedule. In general, Pharmac will not apply a subsidy to a new medicine unless it is offered at a price lower than currently available, subsidized medicines in the same therapeutic class or unless the producer is willing to lower its price on another medicine already subsidized on another schedule. The effect is to force down prices of all medicines in either of the two schedules affected. Pharmaceuticals can also be de-listed if

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a new, cheaper alternative (either a generic or a brand-named product sold at a loss) becomes available, and if the manufacturer of the original product refuses to discount its price to that of the new lower-priced alternative. Thus, Pharmac's use of reference pricing and practice of doing trade-off deals between schedules can negatively affect a company's expected revenue return on its intellectual property.

In 1997, Pharmac suggested that it might try to control its escalating costs by tendering for a sole national supplier in some pharmaceutical classes.

The government and individual pharmaceutical firms have begun a dialogue to discuss Pharmac practices. The firms are promoting a transparent subsidies decision-making process based on sound medical evidence -- designed to divorce pharmaceutical pricing decisions (left to the market) from government decisions on how to distribute its public health budget. Some are also suggesting a type of appeal mechanism so that firms denied a Pharmac listing can bring to the government's attention additional research proving a new medication's specific effectiveness. In general, Pharmac may become part of a growing public and political discussion of health care reform and whether New Zealand's universal pharmaceutical subsidization (regardless of the ability to pay) is an efficient or sustainable use of public funds.

## **INVESTMENT BARRIERS**

There has been an apparent change in how New Zealand handles the politically sensitive issue of rural land sales to foreigners. Beginning in September 1996, the overseas investment commission (OIC) has denied several requests by Americans (as well as other non-residents) to purchase large tracts of rural land. In all cases, the applicants wished to buy agricultural land over five hectares for vacation retreats and showed no evidence of intentions to become permanent residents in New Zealand or to use the land for productive purposes. In December 1997, the new Coalition sent to Parliament a bill that would amend the Overseas Investment Amendment Act of 1995 to strengthen the "national interest" provision for the sale of farm land to foreigners by requiring the government to consider whether the investment would, or would be likely to, bring "substantial and identifiable benefits" to New Zealand; deny OIC consent for the sale of blocks of farm land over five hectares to foreigners unless the land has first been offered on the open market to New Zealanders; and reduce the amount of foreshore requiring OIC approval from 0.4 Hectares to 0.2 hectares. Thus, unless land over five hectares is involved, U.S. investors should experience no change in New Zealand's approval process for foreign direct investment.

## **Competition**

Another possible policy change under the new Coalition Government could provide greater market access for foreign investors and make it more difficult -- for either foreign or domestic interests -- to set up or maintain near monopolies in vertically integrated industries. The December 1996 Coalition agreement between the National and New Zealand First parties states that the government's commercial policy could "support light handed regulations with power to regulate if necessary." New Zealand's Commerce Commission filed a major lawsuit in December 1997 against corporate-giants Fletcher Challenge, Fletcher Energy, and state-owned power generator ECNZ and has asked the high court to unwind Fletcher's earlier purchase of a significant stake in the undeveloped Kupe gas field in Taranaki. The results of these actions could define the future parameters of competition in the gas market and perhaps in other vertically integrated industries. The government is also looking at the possibility of dividing ECNZ into competitive parts to ensure that the benefits of electricity

deregulation are shared by consumers.

## **OTHER BARRIERS**

### **State Trading Enterprises**

New Zealand maintains several agricultural producer organizations which enjoy statutory protection as monopoly sellers or which license sellers. Export monopolies remain in place for dairy, apples, pears, and kiwifruit. The government does not fund marketing board operations. Funding is provided by retained revenue or checkoffs. Legislation in 1997 removed many largely unused meat producer board authorities, including powers to acquire product, control shipping, and impose quality requirements. The Meat Producers Board retains authority to allocate quota access and carry out research and promotion. The Apple and Pear Marketing Board and the Kiwifruit Marketing Board are expected to seek amendments to their legislative authorities in 1998.