

AUSTRALIA

The U.S. trade surplus with Australia was \$6.5 billion in 1998, \$892 million lower than in 1997. U.S. merchandise exports to Australia were \$11.9 billion, down \$111 million (almost 1.0 percent) from 1997. Australia was the United States 15th largest export market in 1998. U.S. imports from Australia totaled \$5.4 billion in 1998, a 17 percent increase over 1997. The stock of U.S. foreign direct investment in Australia was \$26.1 billion in 1997, 8.0 percent lower than in 1996. U.S. direct investment in Australia is largely concentrated in manufacturing and finance.

IMPORT POLICIES

Tariffs

In the Uruguay Round, Australia did not join most other OECD countries in agreeing to phase out tariffs on paper and plasterboard products. Nor did it adhere to the "zero for zero" agreement for distilled spirits (Australia is the third largest market for U.S. exports of distilled spirits).

STANDARDS, TESTING, LABELING AND CERTIFICATION

Sanitary and phytosanitary controls

The Government of Australia limits agricultural imports through quarantine and health restrictions, in some cases without the necessary risk assessment to provide the WTO-required scientific basis for such restrictions. As the result of an independent review of its animal and plant quarantine policies, Australia has implemented a formalized process for conducting import risk assessments. The new process provides for extensive industry consultations and appeals, potentially extending any review over several years. The U.S. is concerned that many commodities that have been discussed previously would have to start the review process all over again under the new rules.

The WTO found Australia's prohibition on the importation of all fresh, chilled, and frozen salmon (based on alleged health-related concerns) to be inconsistent with Australia's obligations under the WTO. On February 22, 1999, the WTO ruled that Australia had 8 months (i.e., July 6, 1999) to bring its regime into conformance with its WTO obligations (i.e., open its market).

Australia prohibits poultry imports (with the exception of cooked poultry) without completing the required WTO risk assessments. However, the Australian Quarantine and Inspection Service (AQIS) has recently started the process of undertaking an import risk analysis of uncooked chicken meat. A ruling is not expected until 2000. The Australian Government has lifted the ban on cooked chicken imports from the United States, Denmark and Thailand. The United States believes the recommended temperature/time requirements applicable to the treatment of processed cooked poultry meat are so extreme as to discourage imports. The United States remains concerned about the scientific basis of the 1997 risk assessment on cooked chicken meat conducted by the Australian Government. A WTO-inconsistent ban also exists on cooked pork (except canned products). The United States has raised these issues at the highest levels of the Australian Government and will continue to do so at all levels and in all appropriate fora.

Australia

Prior to 1994, imported feed grains were restricted from entering Australia, ostensibly due to phytosanitary concerns. During the 1994-95 drought the U.S. obtained approval to export feed grains to Australia to supplement domestic production. Since then, the requirement that all feed grains be steam-treated or processed in an alternative satisfactory manner at the port of entry has made further importation commercially unviable. Australia permits the importation of specified feed grains for processing in metropolitan areas under strict quarantine conditions, although facilities are currently available only at the Port of Brisbane. An import risk assessment on maize is currently underway.

Phytosanitary regulations also prohibit or severely limit the entry of many fruits from the United States, including Florida citrus, grapes, blueberries, stone fruit, apples and pears. After receiving U.S. cherries from California in 1996, the Australian Government decided to revisit the pest risk analysis because of the level of cherries which had to be treated upon arrival. U.S. cherries from 13 counties in California were again accepted in 1998. The United States is waiting for Australia's risk assessments on stone fruit and citrus. A U.S. industry estimate of the market opportunities which could arise from Australia's removal of its restrictions on fresh fruit is \$100-\$250 million. Industry marketers of Florida citrus estimate that export sales of Florida citrus would exceed \$3 million.

Regulations Regarding Genetically Modified Organisms (“GMOs”)

A new mandatory standard for foods produced using biotechnology comes into effect May 13, 1999. The standard prohibits the sale of food produced using gene technology, unless the food has been assessed by the Australia New Zealand Food Authority (ANZFA) and listed in the standard. In December 1998, the Australia New Zealand Food Standards Council directed ANZFA to require labeling for virtually all foods produced using biotechnology. Draft labeling regulations will be considered in mid-1999.

USTR will be monitoring both of these programs to determine whether they are being implemented in a manner that constitutes a barrier to trade.

GOVERNMENT PROCUREMENT

The United States continues to urge Australia to join and adhere to the WTO agreement on government procurement. We trust that Australia will join multilateral efforts to achieve a transparency agreement in the WTO.

EXPORT SUBSIDIES

Australia maintains several programs intended to enhance Australian exports. These include the following:

- **Export Market Development Grants (EMDG):** This scheme aims to encourage Australian exporters to seek out and develop overseas markets for goods, services, tourism, industrial property rights and technology that is substantially of Australian origin. EMDG scheme grants are provided partially to reimburse Australian residents who have incurred eligible expenditures while developing overseas markets for Australian products and services. Funding for the EMDG scheme was recently extended to the 2001-02 fiscal year.

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- **Export Facilitation Scheme:** Under the terms of the EFS, manufacturers of automotive vehicles and components receive subsidies based on the level of exports of specified automotive products. The subsidies are in the form of duty rebate "credits" which recipients can, in turn, use to offset their duty liability on imports of specified automotive products. In general, the level of subsidy is determined based on the sales value of the eligible exports, but the calculation is also done in a way which rewards domestic value-added. The greater the value of any qualifying exported product, the greater the import credit granted. Significantly, however, there is no requirement that the imported products be physically incorporated into the exported product. Imports of finished vehicles for consumption on the Australian market are fully eligible for duty rebates under this scheme. The subsidy benefits are freely transferable and may be sold among participants in the program. It is true that the benefits are progressively reduced each year in line with the annual 2.5 percent tariff reduction on passenger motor vehicles. Nonetheless, the level of benefits will remain significant in the year 2000, when Australia's duty on imported vehicles and components will be 15 percent. The EFS is scheduled to terminate on December 31, 2000.

On April 22, 1998, the Australian Government announced its new *5-year Automotive Competitiveness and Investment Scheme (ACIS)*. The ACIS is scheduled to begin on January 1, 2001. Like its EFS predecessor, the ACIS benefits will be in the form of transferrable import duty credits. In contrast to the EFS, the ACIS makes no overt export contingency references. The U.S. Government will pay careful attention to the Australian Government's eventual implementation of this program.

As described by the Australian Government, the ACIS will reward (1) passenger motor vehicle manufacturers for performance in production and investment in new productive capital assets; and (2) component manufacturers and service providers for investment in new productive capital assets and in technology development. The value of assistance offered to an individual firm under the ACIS will be limited to 5 percent of its sales of eligible products or services produced in Australia in the previous year.

- **Textiles, clothing and footwear (TCF) import credit scheme:** Similar to the automotive export facilitation scheme, the TCF import credit scheme grants duty rebate credits to Australian exporters of TCF products. These import credits entitle the participating TCF exporters to a reduction in import duties on eligible TCF imports. The value of import credits granted is calculated as a percentage (currently 20 percent, falling to 15 percent in July 1999) of the domestic value-added in TCF exports. Import credits are freely transferable and may be sold among participants in the program. The scheme is scheduled to terminate on June 30, 2000.

On July 10, 1998, the Australian Government announced its post 2000 TCF initiatives. The program will begin on July 1, 2000 and run for five years ending June 30, 2005. For Australian-based firms, the program will provide a rebate of up to 20 percent of eligible investment expenditure, reimbursement of up to 45 percent of expenditure on eligible innovation-related activities, and payment of up to 5 percent of TCF value-added by firms in Australia. All firms engaged in textiles, clothing, footwear and leather manufacturing in Australia will be eligible to apply.

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- Automotive Leather: The Australian Government has provided its leading automobile leather exporter a grant worth up to A\$30 million and a\$25 million, 15-year, preferential loan with a five-year repayment holiday. The United States has initiated WTO dispute settlement proceedings with regard to this package.

LACK OF INTELLECTUAL PROPERTY PROTECTION

In general, Australia provides sound intellectual property protection, including for copyrights, patents, trademarks, designs and integrated circuits, and plant breeders' rights. However, the United States is seriously concerned with the recent Australian minimalist approach toward intellectual property protection. We have made these concerns known to the Australian Government on several occasions.

Only in April 1998 did Australia begin a regime to protect test data submitted to regulatory authorities for marketing approval of pharmaceuticals. This regime is a minimalist one, providing protection only for five years and only for new chemical compounds. No protection is provided for new uses and new formulations for existing compounds. Legislation to provide the same level of protection for agricultural chemicals and veterinary medicines is pending.

Consonant with this minimalist approach to intellectual property, the Australian Government has not updated its laws to impose stiffer fines on pirated goods. U.S. industry has seen measurable losses as a result.

In 1998 Australia passed legislation to allow parallel importation of sound recordings. The Government of Australia is also considering the removal of parallel import protection for additional copyrighted works including software, electronic games and gaming equipment.

Steadily growing parallel importation of DVDs is of increasing concern to the motion picture industry. In addition, U.S. industry advises that annual losses to the U.S. motion picture industry due to audiovisual piracy in Australia were about \$21 million in 1998.

The Australian Copyright Act, its interpretation by Australian courts in certain instances, and the position taken by the Australian Federal Police not to pursue criminal prosecution where civil remedies are available, have created costly and burdensome obstacles to the enforcement of intellectual property rights against piracy. The civil remedies, however, have not proven an effective deterrent to piracy.

The Australian Government has announced that it will introduce legislation to allow decompilation under certain circumstances (which have not yet been spelled out). The U.S. Government continues to advise the Australians of our ongoing serious concerns with decompilation.

SERVICES BARRIERS

Australia is overdue in providing to the World Trade Organization an acceptance of the Fifth Protocol to the General Agreement on Trade in Services, which is necessary to bring its commitments on financial services into effect..

Australia

INVESTMENT BARRIERS

All potential foreign investors in Australia are required to submit to a screening process for investment approval. Application of Australia's foreign investment law provides discretion for the government to deny specific foreign investment based on "national interest". Australia's commitments under the GATS Agreement of the WTO are limited as a result of Australia's screening program.

The Australian telecommunications sector has been the subject of significant liberalization since 1997, when restrictions on the number of licensed carriers were lifted. However, total foreign investment in the November 1997 one-third privatization of the state-owned telecommunications carrier Telstra was limited to 35%, and the Australian Government has indicated that foreign investment will be restricted in any further sale.

OTHER BARRIERS

Commodity Boards

Several national and state commodity boards control the marketing and export of certain Australian agricultural products. Activities for these marketing authorities are financed by the producers, but some boards enjoy export monopoly powers conferred by the federal or state government. While some of the boards' domestic activities have been deregulated, the export of wheat and rice remains under the exclusive control of commodity boards. The Australian Government has indicated that the Australian Wheat Board (which strictly regulates wheat marketing abroad) will retain its export monopoly until at least 1999. The export of barley and raw sugar from certain states likewise remains strictly regulated, although the arrangements applicable to barley are currently under review. Approximately 95 percent of dairy exports are made by the private sector and about 5 percent by an arm of the Australian Dairy Corporation. Australia terminated its export support payment scheme for dairy producers on June 30, 1995, but instituted a new internal support program on July 1, 1995. The United States continues to monitor closely this new program for compliance with Australia's Uruguay Round commitments.

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