

AUSTRALIA

TRADE SUMMARY

The U.S. goods trade surplus with Australia was \$21.7 billion in 2012, up \$4.4 billion from 2011. U.S. goods exports in 2012 were \$31.2 billion, up 13.3 percent from 2011. Corresponding U.S. imports from Australia were \$9.5 billion, down 6.9 percent. Australia is currently the 11th largest export market for U.S. goods.

U.S. exports of private commercial services (i.e., excluding military and government) to Australia were \$16.1 billion in 2011 (latest data available), and U.S. imports were \$6.3 billion. Sales of services in Australia by majority U.S.-owned affiliates were \$45.2 billion in 2010 (latest data available), while sales of services in the United States by majority Australia-owned firms were \$12.4 billion.

The stock of U.S. foreign direct investment (FDI) in Australia was \$136.2 billion in 2011 (latest data available), up from \$123.5 billion in 2010. U.S. FDI in Australia is led by the finance and insurance, non-bank holding companies and mining sectors.

Trade Agreements

The United States-Australia Free Trade Agreement (AUSFTA) entered into force on January 1, 2005. Since then, the U.S. and Australian Governments have continued to closely monitor AUSFTA implementation and discuss a range of AUSFTA issues. Under the AUSFTA, trade in goods and services and foreign direct investment have continued to expand, and more than 99 percent of U.S. exports of consumer and industrial goods are now duty free.

Australia is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 10 other Asia-Pacific partners are seeking to establish a comprehensive, next-generation regional agreement to liberalize trade and investment. This agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; and serve as a potential platform for economic integration across the Asia-Pacific region.

The TPP agreement will include ambitious commitments on goods, services, and other traditional trade and investment matters. It will also include a range of new and emerging issues to address trade concerns our businesses and workers face in the 21st century. In addition to the United States and Australia, the TPP negotiating partners currently include Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

GOVERNMENT PROCUREMENT

Australia is not a signatory to the WTO Agreement on Government Procurement, but it is an observer to the WTO Committee on Government Procurement. Under the AUSFTA, the Australian government opened its government procurement market to U.S. suppliers, eliminating discriminatory preferences for domestic suppliers and committing to use fair and transparent procurement procedures.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Australia generally provides strong intellectual property rights protection and enforcement through legislation that, among other things, criminalizes copyright piracy and trademark counterfeiting. Under

the AUSFTA, Australia must notify the holder of a pharmaceutical patent of any requests by a third party for marketing approval of a product claimed by that patent. U.S. and Australian pharmaceutical companies have raised concerns that unnecessary delays in this notification process restrict their options for action against third party products that would infringe their patents if the Australian Therapeutic Goods Administration granted them marketing approval.

Australia was an active participant in the Anti-Counterfeiting Trade Agreement (ACTA) negotiations and signed ACTA in October 2011. It has not yet ratified the agreement. 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

Audiovisual Services

Australia's Broadcasting Services Amendment Act requires subscription television channels with significant drama programming to spend 10 percent of their programming budgets on new Australian drama programs. This local content requirement does not apply to new digital multi-channels.

The Australian Content Standard of 2005 requires commercial television broadcasters to produce and screen Australian content, including 55 percent of transmissions between 6:00 a.m. and midnight. In addition, there are specific minimum annual sub-quotas for Australian (adult) drama, documentary, and children's programs. A broadcaster must ensure that Australian-produced advertisements occupy at least 80 percent of the total advertising time screened in a year between the hours of 6:00 am and midnight, other than the time occupied by exempt advertisements, which include advertisements for imported cinema films, videos, recordings and live appearances by overseas entertainers, and community service announcements.

The Australian commercial radio industry Code of Practice sets quotas for the broadcast of Australian music on commercial radio. The code requires that up to 25 percent of all music broadcast between 6:00 a.m. and midnight must be performed by Australians. In July 2010, the Australian Communications and Media Authority (ACMA) announced registration of a new code that provides a temporary exemption for digital-only commercial radio stations (stations not also simulcast in analog) from the Australian music quotas. The ACMA will review the exemption in 2013. Since January 2008, all licensees of regional commercial radio broadcasting licenses have been required to broadcast minimum levels of local content.

Telecommunications

The Australian Parliament passed legislation for the National Broadband Network (NBN) in April 2011. The government-owned NBN Company (NBNCo) that is implementing the network is intended to be a neutral provider of wholesale high-speed broadband services nationwide. The NBN structure could improve non-discriminatory access to network services, including for U.S. companies, since NBN will not compete in retail markets, and thus will have no incentive (as incumbent Telstra formerly did) to discriminate in favor of an affiliated retailer. In October 2011, shareholders of Telstra endorsed an agreement to progressively migrate the company's voice and broadband traffic from its copper and cable networks to the NBN. In November 2012, the Australian Competition and Consumer Commission sought comment on Telstra's plans to migrate customers from its networks to the NBN to ensure that Telstra does not obtain an unfair advantage from information it receives from NBNCo.

INVESTMENT BARRIERS

Inward foreign investment in Australia is regulated by the Foreign Acquisitions and Takeovers Act 1975 and Australia's Foreign Investment Policy. The Foreign Investment Review Board (FIRB), a division of Australia's Treasury, screens potential foreign investments in Australia above a threshold value of A\$248 million (approximately \$257 million). Based on advice from the FIRB, the Treasurer may deny or place conditions on the approval of particular investments above that threshold on national interest grounds.

Under the AUSFTA, all U.S. "greenfield" investments are exempt from FIRB screening. AUSFTA also raised the threshold for screening of most U.S. investments in Australia, which now stands at A\$1,078 million indexed annually (\$1,117 million, indexed annually). All foreign persons, including U.S. investors, must notify the Australian government and get prior approval to make investments of 5 percent or more in the media sector, regardless of the value of the investment.

ELECTRONIC COMMERCE

A number of U.S. companies have voiced concerns that various Australian government departments are sending negative messages about cloud computing services to potential Australian customers in both the public and private sectors. The government implies that hosting data overseas, including in the United States, by definition entails greater risk and unduly exposes consumers to their data being scrutinized by foreign governments. This messaging is on the decline, but has yet to disappear. For example, in its "Cloud Computing Strategic Direction Paper" the Australian Government Information Management Office cites the U.S. Patriot Act as the sole example of foreign legislation that presents a legal and regulatory risk associated with cloud computing. In July 2012, the Personally Controlled Electronic Health Records Act, which prohibits the overseas storage of any Australian electronic health records, went into effect. The U.S. Government and business community continue to advocate for a risk-based approach to ensuring the security of sensitive data as opposed to a geographical one.

OTHER BARRIERS

Blood Plasma Products and Fractionation

In 2010, the National Blood Authority negotiated a new eight-year contract with Australian company CSL Limited for the ongoing fractionation of Australian plasma and manufacture of key blood products, demonstrating its continued preference for handling fractionation of Australian plasma locally and without public tender. The United States remains concerned about the lack of an open and competitive tendering system for blood fractionation in Australia.