NEW ZEALAND

TRADE SUMMARY

The U.S. goods trade surplus with New Zealand was $53 million in 2010, shifting from a trade deficit of $399 million in 2009. U.S. goods exports in 2010 were $2.8 billion, up 30.7 percent from the previous year. Corresponding U.S. imports from New Zealand were $2.8 billion, up 8.2 percent. New Zealand is currently the 51st 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 2009 (latest data available), and U.S. imports were $1.6 billion. Sales of services in New Zealand by majority U.S.-owned affiliates were not available in 2010 (the latest data available is $3.2 billion in 2007), while sales of services in the United States by majority New Zealand-owned firms were $209 million.

The stock of U.S. foreign direct investment (FDI) in New Zealand was $5.8 billion in 2009 (latest data available), up from $4.8 billion in 2008. U.S. FDI in New Zealand is mostly in the finance/insurance and manufacturing sectors.

In December 2009, the United States announced its intention to enter into negotiations on 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, Malaysia, 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-Favored- Nation (MFN) applied tariff rates among industrialized countries at just 2.4 percent. The average applied MFN agricultural tariff was 1.8 percent in 2009. In 2010, approximately 95 percent of imports to New Zealand (by value) entered duty-free. Approximately 58 percent of New Zealand tariff lines are 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 (0 percent, 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 provides for strong IPR protection and enforcement. Recent developments include the introduction of a new patent bill. Although the draft bill strongly supports New Zealand's objective of improving its patent system, the United States has concerns over certain elements of the current draft bill. The exclusion from patent eligibility of computer programs is of particular concern as it is unconstitutional with patent eligibility standards in other developed economies and is a departure from New Zealand's current Patents Act. In addition, the proposed bill does not include other provisions in keeping with international best practices. For instance, the bill does not include provisions allowing for patent term restoration, which would enable rights holders to recoup the effective patent term lost due to delays in the marketing approval process. The absence of such a provision makes it more difficult for an innovator to recoup his investment in developing new medical products.

The United States continues to encourage the New Zealand government to accede to and implement the WIPO Performance and Phonograms Treaty and the WIPO Copyright Treaty. New Zealand was an active participant in the Anti-Counterfeiting Trade Agreement (ACTA) negotiations, which were concluded in November 2010. The 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

Telecommunications

Mobile termination rates (MTRs) have long been unregulated in New Zealand. New Zealand's dominant telecommunications companies, Vodafone and Telecom, have historically maintained termination rates among the highest of all industrialized countries, and the incumbents appear to have used these rates to put new, smaller mobile entrants at a competitive disadvantage. On a national basis, Vodafone and Telecom control 51 percent and 46 percent of the market respectively.

In June 2009, following an inquiry, the New Zealand Commerce Commission issued a draft determination that cost-based MTR regulation was warranted. Telecom and Vodafone subsequently offered to lower MTRs over the following four years in exchange for the New Zealand government forgoing regulation, which the government was poised to do. When Vodafone announced a new product combining heavily discounted on-net retail prices set below its proposed wholesale mobile termination rates, and off-net prices up to 15 times higher, the New Zealand Government concluded that the voluntary rates were unreasonably above cost and competition would be stifled if the proposals were accepted. On August 4, New Zealand's Minister for Communications Steven Joyce formally accepted the Commerce Commission's recommendation to regulate termination rates, adding mobile termination access services to Schedule 1 of the Telecommunications Act. The Commerce Commission will now go through a process to set wholesale access prices and determine other pro-competitive conditions, potentially regarding on-net/off-net retail price discrimination, with which mobile carriers must comply.

INVESTMENT BARRIERS

Investment Screening

New Zealand screens any foreign investment 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, it 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 (OIA) 2005.

New implementing rules under the OIA 2005 provide government ministers with increased power to consider a wider range of issues when assessing overseas investment applications involving sensitive land (such as farmland greater than five hectares, land adjoining the foreshore, or conservation land). Under the new rules, two new factors will be assessed under a benefit test: an “economic interests” factor that allows ministers to consider whether New Zealand's economic interests are “safeguarded,” and a “mitigating” factor that enables ministers to consider whether an overseas investment provides adequate opportunities for New Zealand oversight or involvement.

OTHER BARRIERS

Pharmaceuticals

The U.S. pharmaceutical industry has strong concerns regarding restrictions to access to New Zealand’s pharmaceutical market. The New Zealand government is the primary purchaser of pharmaceuticals in the country. Some U.S. pharmaceutical companies have left the market since the Pharmaceutical Management Agency (PHARMAC) was created in 1993. Within a budget, which is set by the Minister of Health, PHARMAC determines which medicines to fund, negotiates prices with pharmaceutical companies, and sets the subsidy levels and conditions.

Because of PHARMAC’s cost control measures, many new medicines are often limited or delayed in entering the market. Industry representatives criticize PHARMAC for a lack of transparency, timeliness and predictability in the reference pricing process and for unreasonable delays in reimbursing new products. Combined, these issues create an unfavorable environment for innovative medicines. PHARMAC is reportedly working to improve transparency and increase stakeholder involvement in its processes. The pharmaceutical industry has also reached out to partner with the government of New Zealand and other stakeholders to achieve better provision of quality medicines, as well as better health and economic outcomes.