

AUSTRALIA

TRADE SUMMARY

The U.S. trade surplus with Australia was \$6.0 billion in 2000, \$499 million lower than in 1999. U.S. merchandise exports to Australia were \$12.5 billion, up 5.5 percent from 1999. Australia was the United States' 15th largest export market in 2000. U.S. imports from Australia totaled \$6.4 billion in 2000, a 21.7 percent increase from 1999.

U.S. exports of private commercial services (i.e., excluding military and government) to Australia were \$5.0 billion in 1999, and U.S. imports were \$3.5 billion. Sales of services in Australia by majority U.S.-owned affiliates were \$11.0 billion in 1998, while sales of services in the United States by majority Australian-owned firms were \$10.5 billion.

The stock of U.S. foreign direct investment in Australia was \$33.7 billion in 1999, 8.1 percent higher than in 1998. U.S. direct investment in Australia is largely concentrated in finance and manufacturing.

IMPORT POLICIES

Tariffs

After a two-decade long program of tariff reduction, almost all of Australia's tariffs stand between zero and five percent, with the exception of textiles, clothing and footwear (25 percent) and passenger motor vehicles and components (15 percent). Although Australia did not support the "zero for zero" agreement on paper and plasterboard items in the Uruguay Round, Australia has since supported tariff elimination in the entire forest products sector through the Accelerated Tariff Liberalization initiative in the WTO. As part of our bilateral agreement on automotive leather, Australia lowered its duties on a number of products of interest to the United States. Australia did not 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 Measures

The Government of Australia maintains restrictions and prohibitions on some agricultural imports through quarantine and health restrictions. These include Australia's restrictions on chicken (fresh, cooked and frozen), pork, California table grapes, Florida citrus, stone fruit, apples and corn. The United States Government has insisted that the Australian government comply with its obligations under the WTO Agreement on Sanitary and Phytosanitary Measures and conduct timely import risk assessments. The United States will continue to raise these issues with Australian Officials at all levels and in appropriate fora.

Australia prohibits poultry imports (with the exception of cooked poultry) without having completed the WTO-required risk assessments. A risk assessment on poultry meat is currently underway, with results anticipated in 2001. While Australia has lifted the ban on cooked chicken imports from the United States, Denmark, and Thailand, the temperature/time treatment requirements are so extreme as to effectively prohibit imports.

A ban also exists on U.S. pork (except cooked canned products). A generic risk assessment is in process for pork meat. The associated issues paper was released in January 2001, but a final assessment is not expected until 2002.

In August 2000, the Australian Quarantine and Inspection Service released a revised draft on the risk assessment for corn from the United States. This draft calls for more restrictive entry conditions than currently exist. Current conditions allow steam-treatment at port of entry; the proposed conditions would require treatment offshore. Steam-treatment, whether onshore or offshore, makes U.S. exports unviable.

AUSTRALIA

The United States is still waiting for the draft risk assessment on Florida citrus. The expected release date for this risk assessment has been continuously delayed and is now expected in early 2001, more than 18 months overdue. Industry estimates a potential market exceeding \$3 million for Florida citrus in Australia. By contrast, Australia recently allowed California citrus imports as a result of Australia's newly-established science-based practice for the establishment of fruit fly quarantine areas from which no fruit may be transported.

The final IRA for California table grapes was released in January 2000. Portions of that IRA were successfully appealed by Australian stakeholders. In response to the appeal, a revised IRA was published in June and accepted by the Appeals Panel in July, 2000. This document upheld the original determinations that, with appropriate quarantine treatments, grapes could be imported from California without threatening Australia's conservative quarantine approach or threaten its domestic production. Since then, the Australian Government has rejected the results of the IRA and is calling for additional research on the efficacy of methyl bromide. The U.S. industry estimates the value to the United States of the California table grape market to be between \$12 and \$19 million.

Biotechnology

In mid-1999, a mandatory standard for foods produced using modern biotechnology came into effect. 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. Biotech foods on the market when the standard went into effect are currently allowed to be sold under a temporary exemption (based on approval from foreign health agencies like the FDA and application for ANZFA review). By December 2000, ANZFA had approved seven foods produced from gene technology and was reviewing others.

On December 7, 2000, the Australia New Zealand Food Authority (ANZFA) approved amendments to Standard 18 of the Food Standards Code that will require mandatory labeling requirements for foods produced using gene technology effective December 7, 2001. The amendments require labeling if a food in its final form contains detectable DNA or protein resulting from the modification or has altered characteristics, with a few exceptions. Flavorings derived from modern biotechnology present in the final product in a concentration of no more than 1gm/kg (0.1 percent) or an ingredient or processing aid in which the food unintentionally has a GM presence of no more than 10gm/kg (1 percent) per ingredient do not need to be labeled. A food derived from an animal or other food producing organism that has been fed on biotech feed does not need to be labeled (i.e. meat). Also, highly refined oils where the processing has eliminated the detectable DNA derived from biotechnology would not require labeling. Businesses (including importers) are to exercise due diligence in meeting the standard, which means keeping a paper or audit trail, or in some cases testing. Enforcement will be the responsibility of the States and Territories. The U.S. Government will be monitoring these programs to determine whether they are being implemented in a manner that does not unreasonably restrict trade.

GOVERNMENT PROCUREMENT

The United States continues to urge Australia to join and adhere to the WTO Agreement on Government Procurement. Australia has supported multilateral efforts to achieve a transparency agreement in the WTO.

EXPORT SUBSIDIES

The government uses export market development grants to encourage Australian exporters to develop overseas markets for goods, services, tourism, industrial property rights and technology of substantially Australian origin. These grants are available only to Australian firms, to partially

AUSTRALIA

reimburse eligible expenditures (primarily marketing costs) while developing overseas markets. In August 2000, the Government committed to continuing the scheme until 2005. Textile, clothing and footwear (TCF) producers benefit from grants and automobile and auto parts producers benefit from import duty credits designed to promote production, investment, and research and development. The grant program that benefits TCF producers and the import duty credit program that benefits automotive producers both replaced schemes that provided export-oriented benefits. The U.S. Government is monitoring the WTO consistency of these new programs. By virtue of the settlement agreement arising from the WTO dispute on automotive leather, the Australian Government has excluded automotive leather from these and any successor, replacement or supplemental programs.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Australia is a member of the World Intellectual Property Organization (WIPO), and is a party to most multilateral IPR agreements, including: the Paris Convention for the Protection of Industrial Property; the Berne Convention for the Protection of Literary and Artistic Works; the Universal Copyright Convention; the Geneva Phonogram Convention; the Rome Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations; and the Patent Cooperation Treaty. In August 2000, Australia took final action to implement the 1996 WIPO Copyright and WIPO Performances and Phonograms Treaties. The United States remains concerned over Australia's removal of restrictions on parallel imports, copyright piracy issues, and with Australia's limitations on its protection of test data for certain chemical entities.

Australia has allowed the parallel importation of sound recordings since 1998, and of branded goods (clothing, footwear, toys, and packaged food) since 2000. During July 2000, the Cabinet approved a proposal to remove the restriction on

parallel imports for books and computer software. As of the end of December 2000, the government has not submitted draft legislation to Parliament to implement this decision.

Steadily growing parallel importation of DVDs is of increasing concern to the motion picture industry. 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. Civil remedies have not proven an effective deterrent to piracy.

During December 2000, the Australian House of Representatives' Standing Committee on Legal and Constitutional Affairs released its report entitled "Cracking down on copycats: enforcement of copyright in Australia". The Committee concluded that even though the level of copyright infringement in Australia is low by international standards, it does impose a significant and costly burden to many Australian industries that rely on creative endeavor. However, recent reports from the Australian Recording Industry Association indicate that unauthorized downloads of digitized sound recordings from the Internet are seriously eroding the legitimate CD market in Australia. The Committee recommended amendments be made to the Copyright Act to make it easier for copyright holders to defend their rights in civil actions and to increase the criminal penalties for commercial infringement.

In August 1999, the Australian Parliament enacted legislation permitting limited software decompilation. The U.S. Government continues to monitor the potentially serious impact of this action.

Not until April 1998 did Australia implement a regime to protect test data submitted to regulatory authorities for marketing approval of pharmaceuticals. In 1999, the Parliament enacted

AUSTRALIA

legislation providing five years of protection of test data for the evaluation of a new active constituent for agricultural and veterinary chemical products. No protection is provided for data submitted in regard to new uses and formulations.

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.

OTHER BARRIERS

Commodity Boards and Agricultural Support

The export of almost all wheat, rice, and sugar remains under the exclusive control of commodity boards. The privatization of the Australian Wheat Board (AWB) in July 1999 saw its export controls transferred to the Wheat Export Authority, with veto rights over bulk export requests retained by the grower-owned former subsidiary of the AWB, AWB (International) Ltd. After review during 2000, the Federal government is expected to make a decision regarding the future of wheat export arrangements in 2001. While domestic marketing of barley has been partially deregulated, the export monopoly administered by the Australian Barley Board has been extended until 2001. Having terminated export support payment schemes and internal support programs for dairy producers, the Australian government has made a structural adjustment package available to dairy producers since June 2000.