

# AMCHAM NEWS

## American Chamber of Commerce in New Zealand

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June 2014

### APCAC Washington Doorknock 22-27 June

11 countries were represented at this year's Asia Pacific Council of American Chambers of Commerce Doorknock – Australia, Malaysia, Cambodia, Singapore, Philippines, Thailand, Japan, China, Mongolia, Guam and New Zealand.

The first day was spent at the US Chamber meeting and briefings with:

- US Chamber – Myron Brilliant/Tami Overby/John Murphy/Catherine Mellor
- The Administration including:
  - USTR – Drew Quinn, Michael Beeman, Michael Delaney;
  - State – Daniel Russel, Assistant Secretary for East Asian & Pacific Affairs;
  - Commerce – Holly Vineyard, Deputy Assistant Secretary for Asia;
  - Treasury – Susan Baker, Director of International Banking & Securities Markets;
  - National Security Council - Evan Medeiros, Special Assistant to the President & Senior Director for Asia
- Journalist – Charlie Cook

The next 2-3 days were spent on the Hill with the delegates broken into four teams with half hourly meetings. 60 meetings were held, 50% of which were with Congressmen and a similar split between Democrats & Republicans. We also met with five think tanks – AEI, Peterson Institute, Heritage Foundation, Centre for American Progress and Kurt Campbell, the former Assistant Secretary of State for East Asian and Pacific Affairs and CNZM.

The key issues APCAC raised were:

- TPP & Trade Promotion Authority
- Re-authorization of Ex-Im Bank
- Foreign Account Tax Compliance Act (FATCA)
- Taxation of US citizens abroad

*Myron Brilliant, US Chamber – Ambassador Mike Moore, John Key & ED Farrell US NZ Council*



Congress is due to break for the summer recess and little legislation is being passed including the approval for Ambassador Designate Mark Gilbert, and not a lot is expected to change until after the mid-term elections in November. Many felt that the President legacy won't be Obamacare, which leaves TPP. Commentators felt The President has spent little political capital on TPP so he needs to show more leadership. He is due to visit Asia just after the mid-term elections and it is hoped TPP can be concluded soon thereafter.

There were some who believed that a TPA bill could or should be brought to the floor as early as July, but overall consensus was that this will happen after the mid-terms. The concern is that without it other members of TPP would not put forward their best deal as Congress would have the opportunity of renegotiating any TPP agreement when it has been completed. Should the Senate become Republican controlled after the mid-terms there is a greater likelihood that a TPA bill would be successful.

AmCham would like to thank Air New Zealand for their support in getting our Executive Director to the Doorknock.



### President Obama plans to visit New Zealand

President Barack Obama says he plans to visit New Zealand - "if not this year then certainly before the end of my presidency". Speaking to media after his meeting with Prime Minister John Key, Obama said the US-NZ relationship has never been stronger. "We share values, we have enormously strong people-to-people relationships, we have excellent commercial ties and we have increasing consultations and relationships between our militaries. All of those components have deepened during the course of our tenures here."

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## New Zealand Prime Minister Key Addresses TPP at Chamber

The U.S. Chamber welcomed New Zealand Prime Minister John Key for a breakfast keynote address on June 19, with the ongoing Trans-Pacific Partnership (TPP) negotiations featuring prominently in his remarks. Among other issues, Key addressed Japan's reluctance to open its agricultural markets for such products as pork, beef, rice and dairy. Key insisted on maintaining the goal of securing a comprehensive and high-standard agreement.

"If they [the Japanese] can't meet those terms and the other 11 partners can, then we should get on and do a deal with those 11 partners," Key said, insisting that it is his preference that Japan remain a part of the agreement. Key echoed a number of U.S. congressional, business, and agricultural leaders who have questioned whether Japan is prepared to meet the comprehensive standard of the TPP.

"If ambition comes down in the agricultural sector, then ambition will be lowered in every other sector, and that means intellectual property, that means [state-owned enterprises], that means everything else because there is always going to be a degree of contentiousness about TPP in every country," Key continued. "If I was part of the dairy sector in the United States, or if I was part of the broader agricultural sector in the United States, I would be at the president's door telling him: 'Sign up to a comprehensive deal with total elimination of tariffs.'"

U.S. Chamber Executive Vice President and Head of International Affairs Myron Brilliant commented: "The U.S. Chamber welcomed Japan to the TPP negotiating table on the strength of its pledge to put everything on the table - with no exclusions. We believe that objective is within reach today, but only if all parties keep their commitment."

Prior to the breakfast, at a private meet and greet with the Prime Minister, US NZ Council Chairman Ed Farrell formally presented Council Chair Emeritus Paul Cleveland with the Statue of Freedom.

On Wednesday, June 25, the Council hosted Trade Minister Tim Groser for a private lunch with key agriculture leaders from industry and Capitol Hill. Minister Groser spoke about the concerns of the New Zealand government regarding Japan's reluctance to lower their tariffs on beef, pork, and dairy products. Minister Groser also urged attendees to not let the absence of the Trade Promotion Authority (TPA) stop negotiations on TPP and that the worst decision by all parties would be to settle for a low-quality deal.

[NZ urges U.S. to hold firm on farm exports in Pacific trade deal](#)

[Abbott's and Key's Washington Visits: Deepening Two Pacific Partnerships](#)

[The United States and New Zealand: Forward Progress](#)

[US visit focuses on duty-free access to TPP markets](#)

## The United States and New Zealand celebrate our strong cultural and people-to-people ties.

The President and the Prime Minister welcomed the creation of a \$1.7 million New Zealand Harkness Fellowships Endowment Fund to support outstanding mid-career New Zealand leaders from the public, private, or NGO sector to undertake research and study in the United States. Over the years New Zealand Harkness Fellows have made a significant commitment to New Zealand and to New Zealand's relationship with the United States, and this Endowment Fund will ensure that legacy continues.

Since 1948, when the Fulbright commission was established in New Zealand, more than 3,000 U.S. citizens and New Zealanders have participated in educational and cultural exchanges. Each year, Fulbright offers approximately 80 scholarships to New Zealand and U.S. citizens to study, research, teach, or present their work in one another's countries on issues ranging from climate change and energy, to public policy, business, law, and the arts. New Zealand also hosts 15 National Science Foundation fellows each year.

The United States and New Zealand recently committed to jointly fund the Fulbright Distinguished Awards in Teaching Program to send twenty or more teachers to each other's countries over the next three years. There are more than 3,000 U.S. citizens studying in New Zealand and 1,200 New Zealand students studying in the United States, a nine percent increase over the previous year.

Source: The White House

## TPP Negotiators Meeting

President Obama has announced his intention to reach a deal on a Trans-Pacific Partnership (TPP) by the end of the year, putting pressure on U.S. negotiators at the latest round of TPP talks in Ottawa in early July.

Japan and the United States resumed bilateral talks on a Pacific free trade pact in Tokyo, aiming to bridge remaining differences as far as possible before officials from all 12 negotiating members gathered in Canada.

A Japanese official is quoted as saying that significant progress on the issue of establishing rules for labor rights protection however other contentious problems such as tariffs and intellectual property rights remain to be solved. Akira Amari, Japan's minister in charge of the TPP, said Tuesday in Tokyo it will be difficult to resolve all remaining issues during the current negotiating session.

Source: Japan Times



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(Continued from page 2)

## Intellectual Property Rights Objectives of the US from the TPP

The United States Trade Representative, Michael Froman, recently released a summary statement of what the United States of America wishes to achieve from the Trans Pacific Partnership (TPP) agreement. [Read More](#)

## Secretary Kerry – Remarks at Pacific Day Policy Seminar at NZ Embassy

President Obama is absolutely committed to continuing to make certain that everybody understands this rebalance is not a passing fancy, it's not a momentary thing, and in fact it has grown. We recently renegotiated a long-term defense pact with Japan. We have reaffirmed our relationship with South Korea. We have, obviously, with ASEAN and our presence in Southeast Asia as well as throughout the islands and the nations southwards to New Zealand and Australia, we've strengthened our presence there. And we are continuing and we will continue, I can guarantee you, to work to impress on people that the values that bring us together don't belong to one country. They don't belong to one nation. I would tell you that I think they are genuinely universal values, and they certainly don't belong to any ideology. [Read speech](#)

## US-NZ \$9 billion trade celebrated at AmCham awards: finalists announced.

The American Chamber of Commerce in New Zealand has today announced the finalists for the 2014 AmCham-DHL Express Success and Innovation Awards, the 15<sup>th</sup> year of these awards celebrating success and innovation for companies doing business with the USA.

Mike Hearn, Executive Director for AmCham, says 2014 has seen another strong group of entrants, covering diverse range of products and services. These include cars, refrigeration equipment, technologies, cricket bats, water, agricultural equipment, horticultural products, healthcare devices, pharmaceuticals and tourism.

"We continue to see New Zealand companies entering the US market and succeeding there. While trade with the USA continues to run around \$9 billion pa, there are more New Zealand companies establishing offices in the USA, particularly in the tech sector." says Mr Hearn.

Tim Baxter, country manager DHL Express New Zealand further highlights the interest in the US market. "In a recent exporter survey conducted by DHL Express, it found that the US continues to be the second major export destination behind Australia. Fifty per cent (50%) of exporters shipped goods there in the last 12 months.

"Exporters continue to face challenges such as the strong kiwi dollar, rising fuel costs and increased competition in export markets. However they are continuing to innovate and make in-roads into the lucrative US market. We do everything we can to support exporters with our dedicated team of Certified International Specialists at DHL Express," says Mr Baxter.

This is the first year of the Eric & Kathy Hertz Award for Citizen Diplomacy which has attracted a diverse range of entries.

### [List of the finalists](#)

The awards will be presented at a black tie gala dinner at the Pullman Hotel Auckland on **7th August** with **Hon Steven Joyce** as the key note speaker and MC **Rachel Smalley**. For details and tickets see [www.amcham.co.nz](http://www.amcham.co.nz)

In addition to AmCham, **DHL Express and Hawaiian Airlines**, the awards are supported by **3M New Zealand, ASB Bank, Baldwins, Fonterra Co-operative, Prescient Marketing & Communications, The Pullman Hotel and media sponsor The Business.**

## Intergovernmental FATCA agreement signed

Revenue Minister Todd McClay and United States Chargé d'Affaires a.i., Marie Damour, today signed an intergovernmental-agreement (IGA) which will minimise compliance costs to financial institutions in New Zealand while assist in the prevention of tax evasion.

The IGA is in response to the Foreign Account Tax Compliance Act (FATCA) information-reporting regime enacted by the United States which will take effect from 1 July 2014. It requires non-US financial institutions to provide certain information about their US customers to the United States.

US tax payers have a worldwide tax responsibility to the US government.

"Under the IGA, rather than individually sending account information for US taxpayers to the US IRS, New Zealand financial institutions will instead provide this information to Inland Revenue, who will exchange it with the IRS," Mr McClay says.

Mr McClay says that the agreement will make it easier for New Zealand financial institutions to comply and thereby reduce additional costs being passed on to New Zealand customers.

"The IGA is reciprocal, meaning that New Zealand will also receive information about certain accounts held by New Zealand residents with US financial institutions. This will help prevent tax evasion and enhance the integrity of both countries' tax systems."

"This agreement is much the same as negotiated by a number of other nations including Denmark, Australia and the UK. The key difference is that we have managed to negotiate New Zealand-specific exemptions for entities and accounts that are considered low-risk from a US tax evasion and avoidance perspective. This includes Superannuation, KiwiSaver schemes, tax pooling accounts, registered charities, and Maori authorities as defined by tax legislation."

(Continued on page 4)

**pullman**  
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**FATCA Agreement** (Continued from page 3)

"It is not imposing extra taxes or changing taxing rights. It is also not about Inland Revenue collecting taxes on behalf of the US government."

"The IGA simply makes it easier for our financial institutions to comply with US law, while also helping stamp out tax evasion," Mr McClay says.

The text of the agreement and a related memorandum of understanding are available at [www.taxpolicy.ird.govt.nz](http://www.taxpolicy.ird.govt.nz).

**[What FATCA means for New Zealand financial institutions](#)****Lending, financial inclusion to improve with new consumer credit details**

In a first for New Zealand, banks and other lenders can now assess the creditworthiness of their customers using the comprehensive credit information made available under changes to the country's credit laws.

According to credit bureau Dun & Bradstreet, which is now offering comprehensive credit reports and risk scores to organisations such as banks, utilities and telecommunications companies, the additional information will lead to a more accurate assessment of applications, reduce business risks and lead to fairer and more responsible lending.

The score predicts the likelihood of customers experiencing difficulty making repayments in the next 12 months, while the report lists new details about an applicant's credit history, such as their history of making bill payments on time and information about the type of credit accounts they hold. [Read more](#)

**U.S. begins issuing APEC Business Travel Cards**

The United States has begun accepting applications for the APEC Business Travel Card, enabling faster clearance through immigration throughout the Asia-Pacific. [Read more](#).

**Buzz building around November 1 rugby match at Soldier Field**

Over 30,000 tickets have already been sold for the USA Eagles rugby match with New Zealand All Blacks at Soldier Field in Chicago on November 1. The match is presented by AIG and will be broadcast live on NBC starting at 3 p.m. Ticket sales opened Monday June 16th. "We are very pleased with the tremendous interest in the match, and hope that those fans who want to join us November 1," said USA Rugby Chief Executive Officer Nigel Melville. "Don't wait too long, as we have a limited number of tickets remaining after just one day of sales. Monday was a great testament to the rising interest in the sport, and our match will be one that no sports fan will want to miss." Source: CSN Chicago

**Beervana line up announced**

Today it was announced more than 60 breweries from around the country, as well as some from the USA and Australia, will be showcasing more than 250 different craft beers and ciders during Beervana, held on 22 and 23 August at Westpac Stadium. For more information see [here](#).

**SUCCESS STORIES WITH USA**

[Intel takes a slice of Kiwi start-up](#)

[Kiwi IP strategist ranked alongside the world's best](#)

[Video from NZ's Vend wins Gold Stevie at the American Business Awards](#)

[Mitre 10 expands product range with tie-up to major US hardware co-operative](#)

[New Zealand site dominates U.S. wine world](#)

[Serko confirms granting of US patent relating to travel expense automation](#)

[Auckland High School students heading for Silicon Valley](#)

[Hallmark awards NZ distributorship to kiwi business](#)

[Guavus expands to Australia/New Zealand](#)

[Canterbury to use Silicon Valley internship to launch robotic company in Christchurch](#)

[Goodyear NZ narrows annual loss after shedding workers, exiting retailing](#)

[FedEx Inspires the Next Generation of New Zealand Entrepreneurs](#)

[Foley Family Wines buys Lighthouse Gin brand](#)

[Ford becomes official team sponsor to Blackcaps](#)

[IBM NZ posts profit amid decreased operating revenue](#)

[Six Students Selected to Represent New Zealand at 2014 FedEx/ JA International Trade Challenge Asia Pacific Final in Hong Kong](#)

[Engineering company buys US robotics business](#)

[Kiwi Income Property Trust makes pitch to US investors](#)

[Foley Family Wines plans to move to NZX main board](#)

## TRADE, BUSINESS and INVESTMENT OPPORTUNITIES

### Commercial News USA

The July/August issue of Export USA, the official export promotion magazine of the U.S. Department of Commerce, is currently online at <http://www.thinkglobal.us/exportusa/072014/072014.php>

### Trade-Leads for Importing and Exporting

You are invited to register your company at America's new online trade leads matchmaking platform for importers and exporters. ThinkGlobal is the world's first B2B matchmaking platform to integrate multimedia, localization, virtual trade show technology, and social media. Just register online at [ThinkGlobal](http://ThinkGlobal)

### International Buyer Program – Trade Show Schedule 1 Jan to 31 Dec 2014

for details and support contact Janet Coulthart: [janet.coulthart@mail.doc.gov](mailto:janet.coulthart@mail.doc.gov)

### From ExportX

#### [US Shoppers Choose Priority Delivery](#)

US shoppers now overwhelmingly choose priority delivery for their online orders. ExportX research shows that shoppers' selection of priority delivery service has grown rapidly in recent years, from one-fifth of online orders in 2009 to one-third in 2010, to one-half in 2011. Now in 2014 fully 70% of online orders are dispatched with expedited delivery service, typically [...]

#### [3 Things You Need To Know About E-Commerce](#)

What's it really like to compete in the USA for the dollar of the online shopper? If you're planning to enter the American market with an online sales strategy, there are things you need to know. #1: Delivery needs to be free and fast In April I wrote that 90% of items sold online in the USA ship with free delivery. [...]

### New Zealand Hawaii Business Association's Auckland launch 8<sup>th</sup> Aug

The New Zealand Hawaii Business Association's Auckland launch will be held at a luncheon at the Ellerslie Race Course Function Centre on 8<sup>th</sup> August with the Hon Shane Jones as the guest speaker.

To find out more about this Association, please visit our website: <http://nzhawaii.com>

## GENERAL

### Duffy Books in Homes celebrates 20 years and 10 million books

On July 3rd at Parliament we celebrated 20 years and 10 million books given away by [Duffy Books in Homes](#). Kawana Snow received the 10 millionth book from original Duffy kid Charles Ropitini and Hon Hekia Parata. Our thanks to Mainfreight, AmCham, New Zealand Post, Invesure Media Productions, Camberely Primary School, all our invited guests and special speaker Dr. Ben Carson for making it such a memorable event.



Later the same day Dr Carson spoke at a fundraising dinner in Auckland to 670 guests who enjoyed a wonderful night and helped raise enough to purchase more than 36,000 books for children around New Zealand. [More info](#)

### July 4th Voting Message

Celebrate democracy this 4th of July by taking the necessary steps to vote in the 2014 U.S. elections!

In order to vote in the November 2014 elections, all overseas U.S. citizens need to have completed a [Federal Post Card Application \(FPCA\) in 2014](#). Whether you are a first-time voter or have already received ballots and voted absentee in past elections, you must complete an FPCA **each year** to participate in elections as an overseas absentee voter.

You can always get voting assistance from the U.S. Consulate General or drop off your completed voting forms and ballots, addressed to your local election officials, during the following hours: 8am to 12noon, 1pm to 3.30pm.

You can submit forms and ballots to the consular section to be returned to the United States via pouch, APO, or DPO.

Please mail or deliver the forms in person to: U.S. Consulate General, Level 3, Citibank Building

23 Customs Street East, Auckland 1010, Attention: ACS Section

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## BUSINESS TRAVEL & TRAVEL NEWS

News, views and information for Amcham business travellers from **Grant Bevin**, Managing Director Business World Travel.

Business World Travel is a member of GlobalStar Travel Management

Free outdoor **Summer movies** are a big deal in **New York**. Stay at the very fashionable **Gild Hall Hotel** in the Financial District and join NYC's Rooftop Films community for the summer-long outdoor rooftop series bringing movie buffs and filmmakers together on rooftops across New York. The Gild Hall's packages include wine, popcorn, and a movie basket to-go, upgrade upon arrival and a complimentary welcome cocktail. Gild Hall is located on Gold Street. The Rooftop movies run through to mid-August.

If you are breaking your journey in Los Angeles head to **Santa Monica**. Over the Summer there are free outdoor movies (every Friday night) as well as free outdoor concerts on the Pier (every Thursday night) during Summer. Taxis from LAX offer a fixed flat rate of US\$29-\$35 (plus tip around 15%) or take the LAX Fly Away shuttle bus – it operates hourly from 05.45 to 23.45 daily and takes you to the Santa Monica Civic Auditorium. At LAX, board the buses on the Lower/Arrivals Level in front of each terminal under the green 'FlyAway®, Buses and Long Distance Vans' signs. Each bus is marked with its service location. One way fare is US\$8 and it's free for children 5 and under. Santa Monica offers excellent shopping and restaurants as well as the famed Farmers Market. It's an ideal place to spend a few hours during a longer layover.

**Qantas** has opened its **Los Angeles Business Lounge** in the new **Tom Bradley Terminal** at Los Angeles. The lounge will also be used by One World partners Cathay Pacific and British Airways. The addition of a new First Class lounge in a few months will create a more spacious environment. All Qantas flights from Los Angeles now depart from TBIT. If the new lounge is anything like to airline's benchmark Sydney and Melbourne First lounges, it will be a sensation!

**Qantas** is also offering some excellent savings on flights via Melbourne, Sydney or Brisbane to the US. The sale closes Monday 04 August 14 and includes return fares Auckland / Wellington / Christchurch to Los Angeles from \$1399 Economy, \$3099 Premium Economy and \$5999 Business. **Look at New York!** Economy \$1849, **Premium Economy \$3549**, Business \$7199.

**Hawaiian Airlines** has a '**Warm up with Hawaiian Sale**' for various travel dates this year and including January – March 2015 for sale between now and 08 August 2014. With fares between Auckland and Honolulu from **NZ\$1125 return**, Hawaiian offers **2 pieces of check-in luggage at 32kg each** so the Ala Moana shopping visit won't be an issue. Ask your usual BWT Consultant or any of our leisure team for the details.

Both **Air New Zealand** and **Qantas** have announced increased capacity on flights to **Honolulu**. Qantas will be up-gauging its four weekly flights to the larger Airbus A330 on most flights from Sydney to Honolulu between September and February. They are also adding in a 5<sup>th</sup> service some weeks. Air New Zealand is extending its temporary 4<sup>th</sup> weekly service through to 07 December. The extra service was due to be pulled late October. Hawaii is so popular we feel they could continue the service year round.

United Airlines commences its non-stop **Melbourne to Los Angeles Boeing 787-9** service. At the same time the airline will re-time its Sydney to San Francisco and Sydney to Los Angeles flights to allow far more connections to domestic US points, in particular on the East Coast. The new early morning arrivals in LAX/SFO give an arrival time into Boston, New York or Washington in time for cocktail hour.

For our **Pacific traders** United has applied to fly between **Guam and Shanghai from late October**. This will tie in nicely with the **Star Alliance Circle Pacific** fares and also allow you to combine your China and Pacific business trips into one! Much more cost and time efficient!

### Air New Zealand celebrates a decade of flying Auckland – San Francisco

Air New Zealand is today celebrating 10 years of flying Kiwis to San Francisco. The airline originally began operating three flights per week on June 30, 2004 and now flies daily to this popular North American destination – with plans to go double daily later this year.

The airline will step up its frequency between Auckland and San Francisco to 10 return services per week during the peak season from mid-December to March 2015. The double daily flights will take place on Wednesdays, Fridays and Sundays.

Air New Zealand's Chief Sales and Commercial Officer, Cam Wallace, says "The Auckland–San Francisco route is an important part of our long haul network and a popular year round destination with Kiwis. San Francisco is a key US gateway for Kiwi travellers and an equally important departure point for Americans looking to visit New Zealand and Australia. The growth of this route is great news for both our airline and New Zealand's tourism industry."

Air New Zealand carried two thirds of all US visitors to New Zealand in the year ended May 2014.

A new Boeing 777-300 aircraft will be introduced to the route from mid-July, initially twice weekly and increasing to six services per week, meaning that passengers flying this route will be able to enjoy the airline's innovative Premium Economy SpaceSeat™ and Economy Skycouch™.

Check out our website at [www.bwt.co.nz](http://www.bwt.co.nz)

Reviewing your Corporate Travel? Call our Team:

Jane Higgie Business World Travel Wellington 04-470 6044 [jhiggie@bwt.co.nz](mailto:jhiggie@bwt.co.nz)

Grant Bevin Business World Travel Auckland 09-529 3700 [gbevin@bwt.co.nz](mailto:gbevin@bwt.co.nz)



## FOR YOUR DIARY

30<sup>th</sup> July - AGM reception, Auckland (invite only)

31<sup>st</sup> July – Auckland CEO lunch (invite only)

Rescheduled \*\*5<sup>th</sup> August – TPP update with Trade Minister Tim Groser in conjunction with CANZBA, Auckland

7<sup>th</sup> August – 2014 AmCham-DHL Express Success & Innovation Awards Dinner, Auckland

11<sup>th</sup> August - Leadership for Execution of Strategy seminar with Matt Tice, Managing Director, Palladium Group Asia Pacific, Auckland.

21<sup>st</sup> August - Auckland CEO lunch (invite only)

8<sup>th</sup> September – SelectUSA Attracting Investment, Increasing Employment in the USA breakfast seminar in Auckland

16<sup>th</sup> September - Auckland CEO lunch (invite only)

17<sup>th</sup> or 18<sup>th</sup> September – Cyber Security briefing with Symantec, Auckland

22<sup>nd</sup> September - Going to America - Risks and Rewards: What Export Orientated Companies Need to Understand About IP - Paul Adams, CEO, EveredgelP, Auckland

## MEMBER NEWS

### AmCham named as a finalist in AUT Business School 2014 Excellence in Business Support Awards

AmCham has been named as a finalist in the AUT Business School 2014 Excellence in Business Support Awards in the New Zealand Trade and Enterprise Export Support category. Also in this category are two other AmCham members – AJ Park and DHL Express. The awards dinner is being held on 2<sup>nd</sup> October.

[Full list of finalists.](#)

### Microsoft taking 80 to US

The Microsoft Worldwide Partner Conference is an annual, global convergence of Microsoft's top partners. The New Zealand delegation is represented by over 80 attendees from over 40 different companies and will be hosted at the NZ Embassy by Ambassador Mike Moore.

### IP leaders recognised

Takapuna based EverEdgeIP was delighted to be informed that **Paul Adams** and **Paul Davies** from their Auckland office - and their international affiliates Chris Donegan (UK), Andrew Sant (UK), Francis Rushford (USA) and Ray Reusser (USA) - join an elite group of only 300 people world-wide to be selected to appear in the magazine's IAM Strategy 300 list for 2014.

**Baldwins Partners Tim Jackson and Wes Jones** have also been identified by *IAM Patent 1000 – The World's Leading Patent Practitioners 2014* as two of the top patent practitioners in New Zealand.

### People on the move:

**Constellation Brands New Zealand Ltd** has appointed a new Managing Director following the upcoming retirement of the current CEO, **Joe Stanton**. **Sam Glaetzer** will join Constellation Brands as Managing Director, New Zealand, on 14 July 2014

**Cigna New Zealand has appointed Lance Walker as its new Chief Executive Officer**

Airline operations technology company, [merlot.aero](#), has appointed industry veteran **Dana Knight** as its Vice President Americas

**Air New Zealand** has appointed an international corporate travel services expert, **Linda Jenkinson**, to its board, replacing Jim Fox who plans to retire in August.

**Dell** has appointed **Angela Fox** as the vice president and general manager of **Dell Australia and New Zealand (ANZ)**.

**Ben King**, the prime minister's foreign policy adviser, off to study at Harvard. **Taha Macpherson** has replaced Ben.

**Andy Shaffer**, Managing Director of **Lockheed Martin Mission Systems & Training** is moving to Orlando FL, **Gerry Christian** is the interim Managing Director

**Fonterra's** Director of Corporate Affairs, **Todd Muller**, has left to stand as National's candidate for the Bay of Plenty electorate.

**DLA Phillips Fox** is delighted to welcome two new partners in Wellington **Sue Brown and Daniel Arapere**.

**Nathalie Malfeyt** is the new Manager International Department at the **Auckland Chamber of Commerce**



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## LEGAL ISSUES

### **Norris Legal Consulting – American Law Specialists**

*In partnership with the American Chamber of Commerce New Zealand (“AmCham”), our objective is to provide AmCham members with information on the complex US legal landscape, which might assist in US-NZ business relationships, and to assist NZ businesses expanding into the lucrative US markets. In our monthly column, we write about legal issues which we deal with in our representation of NZ businesses doing business in and with the US; however, we are also open to suggestions on topics about which members are interested in learning. So, please feel free to email us with your comments, questions and any suggested topics at [info@nz-uslegal.co.nz](mailto:info@nz-uslegal.co.nz).*

### **Jurisdiction Selection Clauses\***

Most agreements contain clauses which select the law of the jurisdiction which controls the interpretation of the agreement. Many business people fail to realize that this selection will also, for the most part, determine the law which controls any dispute over the contract as well.

We have run into several cases where clients do not understand the significance of this factor. For instance, if you are buying goods from a Turkish company and the purchase order has language which states that Turkish law controls the agreement, then you have a significant limitation which is placed on you once you accept goods under an invoice. Specifically, Article 23 of the Turkish Commercial Code contains a provision which stipulates that “A person in receipt of an invoice is deemed to have accepted its contents unless there is an objection to the invoice or its contents within eight days from its receipt”. This kind of law catches the unsuspecting foreign purchaser of non-conforming goods by surprise by specifically limiting the purchaser’s right to sue for breach of contract by placing a short trigger period and notice requirement on the claim. One may not suspect that by the simple statement that the “purchase order is controlled by Turkish Law” that this brings into effect other provisions of the law which may be vastly different from your home jurisdiction’s laws.

This same sort of issue comes up daily with foreign businesses entering into transactions with US businesses. US businesses will often insist that transactions have agreements controlled by the law of a specific US state in which that business is located. While most US states have very similar contract law to other nations following the English Common Law tradition, there are some very substantive differences which are singular to American law, and other important differences on how a conflict will be treated depending on what state’s law applies to the contract or any dispute.

**- Zachary D. Norris, JD, LL.M. and Ada Echetebe, JD, LL.M.**

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## TAXATION ISSUES

### **New Zealand-United States FATCA Intergovernmental Agreement Signed 12 June 2014**

By Gina Wallace, Director, NZ US Tax Specialists Limited [gina@nzustax.com](http://gina@nzustax.com)

On 12 June 2014 New Zealand and the United States signed an intergovernmental agreement (IGA) which enhances the ability of each country to exchange information related to its residents, and confirms the requirements for New Zealand to comply with the provisions of the United States Foreign Account Tax Compliance Act (FATCA), in force on July 1, 2014.

The agreement signed represents a Model 1 Intergovernmental Agreement (Model 1 IGA) by way of which the New Zealand Inland Revenue will collect and report information to the Internal Revenue Service on New Zealand Foreign Financial Institutions (FFIs).

There are two IGAs, Model 1 and Model 2, which were released in 2012 to facilitate FATCA. The thrust of the IGAs is to reduce the compliance costs of FFIs, which has been one of the much heralded criticisms of FATCA since it was enacted in 2010 as part of the Hiring Incentives to Restore Employment Act.

There is strong support globally for a broad IGA network as a way for the United States to meet its objectives under FATCA, while avoiding some of the other problems including privacy issues, as well as effective and efficient cross-border tax information reporting.

There are now 26 jurisdictions with IGAs signed with the United States. Of those 26 jurisdictions, 21 have signed Model one IGAs, including New Zealand.

#### **Model 1 IGA jurisdictions are:**

Australia, Belgium, Canada, Cayman Islands, Costa Rica, Denmark, Estonia, Finland, France, Germany, Gibraltar, Guernsey, Hungary, Honduras, Ireland, Isle of Man, Italy, Jamaica, Jersey, Latvia, Liechtenstein, Luxembourg, Malta, Mauritius, Mexico, Netherlands, New Zealand, Norway, South Africa, Spain, Slovenia and the United Kingdom.

#### **Model 2 IGA jurisdictions are:**

Austria, Bermuda, Chile, Japan and Switzerland.

48 more agreements have been reached in substance using Model 1 IGA, and 5 have been reached in substance using Model 2 IGA.

Model 2 IGAs have FFIs that must report directly to the IRS.

The New Zealand-United States agreement refers to Article 25 of the Convention (Double Tax Agreement) between the United States of America and New Zealand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on income, together with a related Protocol. Article 25 authorizes exchange of information for tax purposes.

The agreement also states that the Government of New Zealand is supportive of the underlying policy goal of FATCA to improve tax compliance.

Key aspects of the 97-page agreement that New Zealand and the United States have signed are as follows.

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