

AMCHAM NEWS

American Chamber of Commerce in New Zealand

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AmCham to celebrate 50 years in 2015

AmCham was first registered on 16th March 1965 as the American Trade Association of New Zealand. To celebrate 50 years we will be making our annual awards dinner a major gala event and will be inviting past presidents, former Ambassadors and other key people who have played a significant role in AmCham over the decades, to the dinner.

We could not have achieved this milestone without the support of our members, four of whom have been with us for all 50 years – **3M New Zealand, Air New Zealand, ANZ Bank, and IBM New Zealand.** We will recognise their support as well as presenting 25 year membership awards to - **Citibank NA New Zealand, Crown Worldwide (NZ) Ltd and Deloitte.**

Ambassador Mark Gilbert arrives in NZ, talks about trade & commerce

Ambassador Gilbert arrived in New Zealand on 23rd January and has hit the ground running. He presented his credentials to the Governor General on 9th Feb and met with Prime Minister John Key two days later.

On his inaugural visit to Auckland AmCham was delighted to welcome Ambassador Gilbert and his wife Nancy at a lunch where the Ambassador delivered an address entitled "New Zealand/United States Trade and Commerce - the bedrock of a strong relationship".

On the current trade agenda Ambassador Gilbert was of the opinion that TPA is likely to go forward and TPP negotiations could be concluded in the first half of this year, but noted that substance was still the primary focus of the U.S. Administration.

Some of the key themes that the Ambassador and US Embassy will be working to advance trade and commerce:

- Innovation & Start Ups
- Travel & Tourism
- Science & Research
- Green Tech



AmCham looks forward to working with Ambassador Gilbert during his time in New Zealand.

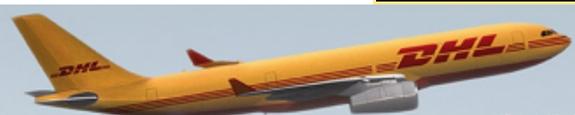
The Ambassador's comments were supported by a recent email sent by AmCham Australia Executive Director, Niels Marquardt, to his members "I recently returned from a highly valuable visit to the United States. In Washington and New York, I was able to confirm first-hand that the Trans Pacific Partnership (TPP) is fully on track for completion this year. It will not be without road bumps, but the process has not looked better in years. TPP is quickly gaining both negotiating and political momentum into 2015. Multiple U.S. officials told me in Washington that they expect signatures by mid-2015 and congressional approval to follow. Trade appears to be the main area where the Republican leadership in Congress will find common cause with the Democratic administration".



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TPP & TPA on the move - President Obama Calls for TPA in State of the Union

From the US Chamber of Commerce

On January 20, President Obama urged Congress to pass Trade Promotion Authority (TPA) during his [State of the Union](#) address. He said in part:

21st century businesses, including small businesses, need to sell more American products overseas. Today, our businesses export more than ever, and exporters tend to pay their workers higher wages. But as we speak, China wants to write the rules for the world's fastest-growing region. That would put our workers and businesses at a disadvantage. Why would we let that happen? We should write those rules. We should level the playing field. That's why I'm asking both parties to give me trade promotion authority to protect American workers, with strong new trade deals from Asia to Europe that aren't just free, but fair.

Look, I'm the first one to admit that past trade deals haven't always lived up to the hype, and that's why we've gone after countries that break the rules at our expense. But ninety-five percent of the world's customers live outside our borders, and we can't close ourselves off from those opportunities.

U.S. Chamber of Commerce President and CEO Thomas J. Donohue welcomed the president's comments on trade in a [statement](#): "The business community looks forward to working with both the administration and Congress to enact Trade Promotion Authority and complete historic trade deals across the Pacific and the Atlantic."

Separately, in the Republican [response](#) to the State of the Union address, Senator Joni Ernst (R-IA) said: "Let's tear down trade barriers in places like Europe and the Pacific. Let's sell more of what we make and grow in America over there so we can boost manufacturing, wages, and jobs right here, at home."

Congressional Trade Leaders Discuss Agenda with Froman

On January 27, U.S. Trade Representative Michael Froman testified before the [Senate Finance Committee](#) and the [House Ways and Means Committee](#) on the U.S. trade policy agenda for 2015. Both hearings revealed a significant level of bipartisan support for advancing the trade agenda, starting with renewal of Trade Promotion Authority (TPA).

Ambassador Froman expanded on the president's call for renewal of Trade Promotion Authority (TPA) during his State of the Union Address. On the Trans-Pacific Partnership (TPP), he said:

The contours of a final agreement are coming into focus, and we have made important progress in the market access negotiations and in addressing a number of twenty-first century issues such as intellectual property, digital trade, competition with state-owned enterprises, and labor and environmental protections.

Shawn Donnan, World Trade Editor reported that The US has told its partners within the TPP that it wants to complete negotiations before the summer so that an agreement can be put to Congress by the end of 2015 and before the 2016 presidential campaign heats up. The consensus in Washington is that Congress is likely to vote on fast-track authority within two-three months and that a TPP deal will be closed shortly thereafter.

Hatch: TPA Bill Could Be Introduced Soon

On January 20, the new chairman of the Senate Finance Committee Orrin Hatch (R-UT) unveiled the Committee's 2015 agenda in a breakfast [event](#) at the Chamber. His [remarks](#) outlined a growth-oriented agenda in which renewal of Trade Promotion Authority (TPA) figured prominently. He said in part:

My goal as Chairman of the Senate Finance Committee is to help ensure that these trade agreements meet high standards and provide the very best opportunities for American workers and the businesses who hire them. To do that, we need to renew Trade Promotion Authority, or TPA. Every president since FDR has sought TPA in their efforts to negotiate and conclude high-standard trade agreements. In the last century, no major trade agreement has been concluded by an administration and enacted by Congress without TPA.

In comments to the press on January 22, Hatch said he is working to introduce a TPA bill as soon as next week and to hold a markup on trade promotion authority legislation by the end of February.

Froman Presses ITC for Quick TPP Economic Analysis, Without Final Text - From Inside U.S Trade

U.S. Trade Representative Michael Froman last week urged members of the U.S. International Trade Commission (ITC) to accelerate their economic impact assessment of the Trans-Pacific Partnership (TPP) and complete it by summer in advance of a congressional TPP vote in the fall, according to informed sources.

The 6th US NZ Partnership Forum to be held in Auckland in June

The US | NZ Council has also begun discussions with the NZUS Council on the next Pacific Partnership Forum, which is scheduled to be held in Auckland June 30 – July 1, 2015. The Council is planning an exciting program agenda aimed at Pacific Partners – the Next Generation.

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Supporting AmCham

Ports Congestion (Continued from page 2)

USA West Coast ports congestion update

from Geoff Popham, Business Development Manager, Burnard International Limited - Geoff@burnard.co.nz

Congestion in Los Angeles-Long Beach has reached a crisis stage with 20 container ships stuck at anchor Tuesday 3rd Feb in the largest U.S. port complex — and no relief in sight.

The Marine Exchange of Southern California reported that the vessels at anchor increased by four since Monday. Shipping lines say vessels in recent weeks have been sitting at anchor for seven to 14 days, and when they proceed to berth, it takes another six to eight days to work the ships. Vessels in the trans-Pacific have been thrown so far off schedule that at least one line has no vessels available to carry containers from Asia because all of its ships are stuck on the West Coast.

Meanwhile, contract negotiations between the International Longshore and Warehouse Union and the Pacific Maritime Association appear to be going nowhere. Significant progress was made when the PMA on Jan. 26 confirmed that a tentative agreement was reached that would allow ILWU mechanics to inspect all chassis before they leave the marine terminals.

However, with hopes raised that a settlement could be forthcoming in a matter of weeks, ILWU negotiators reportedly stunned employers by returning to the bargaining table the next day with a dozen new demands, some of which are considered to be highly controversial. A teleconference between the parties is scheduled for today, with media to be present.

Arrivals and departures in New Zealand are continuing to be seriously delayed, as lines struggle with schedule integrity in the US – NZ – AU – Asia loops which are all connected.

We suggest our clients, both importers and exporters – discuss with suppliers and customers, ways and means to add at least 10 - 14 days to current lead time expectations.

We hope the parties will soon reach agreement.

SUCCESS STORIES WITH USA

[Michael Hill creates ad for Super Bowl](#)

[Tri-Lamb Group working to put lamb on the menu in the US](#)

[Wynyard Advanced Crime Analytics Solution Selected by PSCU](#)

[Local Productions Help New Zealand Achieve Record Box Office](#)

[Americans the biggest buyers of New Zealand land since 2010, Linz data shows](#)

[Silicon Valley beckons as Wellington East Girls gear up for the future of IT](#)

[Cubic Defence NZ ranked #1 Defence SME by Australian magazine](#)

[Volpara Solutions Signs Agreement with GE Healthcare to Distribute Products to Help Improve Breast Cancer Screening](#)

[US identity theft ring investigation to use Wynyard software](#)

[Datacom and Interactive Intelligence partner to transform contact centres](#)

[Mobile mentor signs partnership with Telesign](#)

[Drury realises American Dream with Xero US deal](#)

[IkeGPS inks \\$500k US deal](#)

[Microsoft showcases Kiwi talent in NYC](#)

[Zomato acquires Urbanspoon](#)

[Shannara announcement adds to boom year for Auckland's screen industry](#)

[New high performance filling system step change for global fresh produce sector](#)

[Michael Hill lifts first-half sales on North American growth](#)

TRADE, BUSINESS and INVESTMENT OPPORTUNITIES

Commercial News USA

The January/February 2015 issue of Export USA, the official export promotion magazine of the U.S. Department of Commerce, is currently online at <http://exusa.thinkglobal.us/012015/>

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](#)

International Buyer Program

Trade Show Schedule 1 Jan to 31 Dec 2015 – for details and support contact Janet Coulthart: janet.coulthart@mail.doc.gov

US Export Controls for Non-US Transactions course, Singapore March 23-26

The Export Compliance Training Institute, (based in Virginia, USA) offers on compliance with US Export Controls (EAR, ITAR, OFAC). Our company works very closely with the Commercial Specialists in Singapore, Canada, The Netherlands and the UK where we offer this training each year. We have been offering a series of training (4 days events with the first 2 days focusing on EAR and OFAC Controls & the last 2



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US Export Controls (Continued from page 3)

days focusing on the ITAR controls) in these locations for 10+ years.

Singapore (March 23-26,2015): www.learnexportcompliance.com/Singapore2015 --Donald Pearce (Regional Export Control Officer - US Embassy Singapore) will be doing a presentation at this event.

We always offer a 10% discount to contacts of the US Commercial Service and a 15% discount to US and foreign government entities.

We also offer this training electronically via e-Seminar which eliminates the time and travel expense of live training. Details on this can be found at: <http://www.learnexportcompliance.com/e-Seminars/Non-US-Companies.aspx>

Download and share the Kea App - Now you can find and chat with expats in every corner of the globe, and find New Zealand events and businesses near you. Using geo-locating software the Kea App connects you to other Kiwis, events and businesses in your region. Find out more on Kea's [website](#), and download the Kea App from the [App Store](#) or [Google Play](#). Please share the Kea App with your networks and help connect New Zealand offshore like never before.

From ExportX**#1 UMF Manuka Honey in the USA**

Happy Valley UMF 15+ honey is the top-selling UMF manuka honey in the USA, according to Amazon Grocery department bestseller lists. Happy Valley's ... [Read on »](#)

The US - big opportunity, big risk

In the first of a three-part series on the intellectual property risk for New Zealand businesses in the US, the CEO of EverEdgeIP Paul Adams discusses why it's important to seriously think about intellectual property in this market. [Read more](#)

FOR YOUR DIARY

20 th February	Hawaiian Airlines - AmCham Auckland Ambrose Golf Tournament
26 th February	Auckland CEO lunch (invitation only)
4 th March	Wellington CEO lunch (invitation only)
5 th March	Annual Wellington Member & Government Officials reception at Deloitte
18 th March	Auckland CEO lunch (invitation only)
26 th March	Seminar - Customer Innovation, the next frontier with Matt Tice, Palladium Group Australia, Auckland
23 rd April	Meet the Class of 2015, Auckland in association with Exceltium Ltd
30 th April	Doing Business with the USA Roadshow to Wellington

MEMBER NEWS**Glenn Wedlock**

AmCham was saddened to learn of the passing of Glenn Wedlock of Auckland International Airport who lost his battle with cancer in December 2014. Our condolences to his family and work colleagues.

People on the move:

Abbie Ltd Country Manager **Nick Leach** has been promoted to a new role in Singapore.

Xero has named US-based **Douglas Jeffries** as CFO as it targets North American market

Patrick Franz has been appointed the Regional Director New Zealand, Australia and Pacific for **Conway Data, Inc.**

New Zealand Trade and Enterprise has appointed Kiwi entrepreneur **Claudia Batten** as its Regional Director for North America

Paul Martin has relocated to Queensland as State Manager, Queensland for **Ace Insurance**. **Andrew Brooks** takes over the ACE Country President for NZ.

Observatory Crest Ltd has changed name to **Arrow ECS ANZ Limited t/a Arrow ECS NZ**

IBM has announced the appointment of **Kerry Purcell** as Managing Director of IBM Australia and New Zealand.

The New Zealand China Trade Association has appointed DLA Phillips Fox partner **Martin Thomson** as its new Chairman

Bjoern Spreitzer has been appointed General Manager Americas and Europe at **Tourism New Zealand**, based in Los Angeles.

Mark Ross has left **Federated Farmers** to join **Agcarm** as CEO.

Jude Manuel has relocated to Melbourne in the role of Director of Professional Services Australia /NZ. **Denise Miles** is the GM for **Lee Hecht Harrison NZ**

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

Travel Management

The New Year is always a great time to consult with us about the aspirations you have for your company or firm's travel programme. No matter how small or large your spend, our Team here at **Business World Travel are industry experts** in appraising and analysing your travel spend and tailor making a Travel Programme that best suits your objectives, whether these be Traveller 'duty of care', savings, employee compliance to your travel policy or supplier performance to name just a few concepts. Call us in for a chat!

Airlines

If 2015 involves US travel plans it's a great time to purchase your tickets now with a raft of airline deals just announced. **United Airlines, Air New Zealand, Qantas, Hawaiian** and **Air Pacific** are all on sale for the next week or so. **United** is offering Los Angeles Business Class at NZ\$6582 (via Sydney or Melbourne), **Air New Zealand** is offering Los Angeles or San Francisco in Premium Economy Class with \$500 off per direction, **Hawaiian** is offering Honolulu for \$1055 return, Air Pacific Economy to LAX at \$1399 return and the best offer of the season from **Qantas** which is offering Premium Economy to New York at NZ\$3072 return. Each airline offers more destinations and classes of travel than this condensed commentary provides – call your usual BWT Consultant or if new to BWT contact any of our team. (Fares are offered from Auckland; ask us about add-ons from your city. Taxes are additional on all these offers and level depends on stopover cities).

Qantas and Cathay Pacific have gained recognition as the world's safest airlines. Airline Ratings has taken a broad range of criteria in their assessment and have said that Qantas is the benchmark internationally. They have acknowledged Qantas as the leader in virtually every major advancement in airline safety in the last sixty years. In another poll by an organisation known as JACDEC (which records airline crash data) also endorses the Qantas record but also rates Cathay Pacific as the safest airline to and from Europe. JetBlue was the only US airline to make the latter's ranking.

Executive Leisure

We received a value packed offer departing 16 May 2015, where you'll see most of the **Hawaiian Islands**. At around NZ\$5669 per person (share twin) you'll receive a Balcony Stateroom on board **NCL Pride of America** for 7 nights Island Cruise (all meals included), four nights in Waikiki and flights Auckland to Honolulu with **Hawaiian Airlines** in economy class. Savings can be achieved by dropping to a lower category cabin on board. Ask Tanya at BWT Auckland or Agota and BWT in Wellington for the details.

Hawaiian holidays will be hot again in 2015 in more ways than one! If you're taking the family to **Hawaii for school holidays** this year, don't leave it too much longer to book. Our family travel expert Tanya Warman reflects on how many people booked for the July and September school holidays last year far too late to get the lowest fares, resulting in them paying 40 or 50% more than then needed to if they'd booked earlier. As there is insufficient airline capacity during the school holidays to match demand we encourage you to call us now! Tanya with other members of our team have seen over 40 Waikiki and Maui properties recently so have the most up to date feedback for you about what accommodation will suit you. (Tel 0800 508580 twarman@bwt.co.nz)

Prefer a little more solitude? **CN Traveller** has recently featured a list of its opinion of **the top ten spa resorts in California**. The Post Ranch Inn at Big Sur over the last couple of decades has conquered the top hotel categories for all North America but has been picked for this list because of its wonderful spa facilities. Or try El Encanto in Santa Barbara, La Quinta Resort near Palm Springs or Rancho Valencia amongst the ranches and polo fields north of San Diego. Any of these resorts will have your body and mind realigned before heading back to work after your business trip. Our leisure team is on hand to assist.

BWT People

Our Wellington based Amcham representative member Jane Higgie finishes with BWT after 11 years. We wish Jane well in her new industry and role at Tommy's Real Estate in the Capital.

Check out our website at www.bwt.co.nz

Reviewing your Corporate Travel? Call our Team:

Clare Gilbertson Business World Travel Wellington 04-470 6044 cgilbertson@bwt.co.nz

Grant Bevin Business World Travel Auckland 09-529 3700 gbevin@bwt.co.nz



MEMBER NEWS (Continued from page 4)

Wharf42 Announces the Launch of the Meteoroid Program

TAURANGA – 23 January 2015: Wharf42, the New Zealand-based business connector focused on identifying high-potential NZ technology start-ups, getting them to Silicon Valley and plugging them into that region's vast technology ecosystem, today announced the launch of its 2015 Silicon Valley Acceleration Program, Meteoroid.

The Meteoroid Program has been designed to enable New Zealand startup and early stage ICT businesses accelerate their entry into Silicon Valley. Accessing relevant business development and investor networks in Silicon Valley is a key component of the Program. That is why this New Zealand managed program will be run out of the Plug and Play Tech Center, Silicon Valley's largest business incubator.

Peter Wren-Hilton, Wharf42 founder says, "Our Silicon Valley team is made up of a group of experienced entrepreneurs and sophisticated investors. This team is dedicated to supporting the Program by facilitating access to the Valley's extensive eco-system of angel investor networks, venture capitalists, tech and corporate partners".

"In New Zealand", Wren-Hilton continued, "we are working with a number of service partners whose experience of Silicon Valley and the North American market will help the startup and early stage businesses accepted into the Meteoroid Program, prepare for market entry. We are hugely excited by the opportunity that the Meteoroid Program will bring to New Zealand's rapidly growing ICT sector".

Jupe Tan, VP Plug and Play International says, "Headquartered in Sunnyvale, CA, Plug and Play's global network includes 300+ tech startups, 30+EIRs and a community of leading universities and corporate partners. With over 100 VCs, over 50 strategic corporate investors, and Plug and Play internal funding, our access to potential investors is unparalleled".

Tan continued: "We are delighted to partner with the Meteoroid Program. We are working with Wharf42 to provide access to the mentoring, investment and corporate partner networks that will enable New Zealand entrepreneurs connect with Silicon Valley's vast innovation ecosystem".

Wharf42's 2015 Meteoroid Acceleration Program will commence in June 2015. Details of the Meteoroid Program schedule, eligibility and team can be found at www.meteoroid.co.nz

Seeking work

Camila Bloch

I am a new resident to New Zealand living in North Shore, Auckland. I have varied experience in business and science. I have been a Realtor for 9 years with some experience in property management of vacation rentals. I have been self-employed as owner operator of a kitchen renovations and cabinetry supply business and my early employment was doing research in university laboratories. I am looking for employment in any industry, understanding that I am willing and able to undertake any training necessary. I can be contacted at my email address: camilabethbloch@gmail.com

Intern NZ and Intern OZ - Organisations willing to host an intern in 2015

We are seeking organisations willing to provide UNPAID work experience to a University student or graduate from periods of 6 weeks to 6 months in all areas of work for the 2015 year.

Many interns are required to undertake an internship as part of their tertiary study while others are simply looking to build their CV. There is no other commitment beyond providing relevant work experience to their field and the tools to complete the task, such as a work station.

We do not place interns into home offices.

Here is a link that explains a little bit more about the internship programme and it leads to a form where you can outline the type of experience you can offer: [INTERNSHIP PROGRAMME INTERN REQUEST](#)

COMPLETING THE FORM IS NOT A COMMITMENT TO HOST AN INTERN, YOU ALWAYS HAVE THE OPPORTUNITY TO ENSURE THE TIMING WORKS FOR YOUR ORGANISATION AND THEIR SUITABILITY FOR THE ROLE.

The role descriptions do not need to be too long and can be quite general (preferred) unless it's timed for a specific project. 3-4 lines is usually enough.

Contact: Bob Alagh, Tel: +64 (0)4 384 0117 admin@internNZOZ.com | www.internNZOZ.com

NZTech invites you to be a part of SXSW 2015

Join us at the most epic gathering of creative minds and innovative talent from 13-18 March 2015 in Austin, Texas. If you need to find top talent to work for your growing business, talk to investors or promote your company to visitors, this is the place.

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BUSINESS TRAVEL INSURANCE
FROM ACE acegroup.com/nz



SXSW 2015 - (Continued from page 6)

What's involved?

We'll kick-off dinner with a dinner on Thursday 12th March, launch the Job Market on Friday 13th March and the Trade Show booth from 15 March running through to the afternoon of Wednesday 18th March 2015.

NZ Inc Networking Dinner, 12 March 2015

Build connections at the welcome dinner on Thursday evening for all members of the New Zealand delegation. Kiwis already based in the USA building their tech companies and promoting NZ Inc will also be invited to join us.

Job Market, 13-14 March 2015

Participate in the Job Market expo in the lead up to SXSW, ideal for high growth businesses seeking to attract tech talent.

Be onsite at the New Zealand booth to directly promote your company and employment opportunities at your company to Job Market delegates.

We'll be on hand to support participating tech companies to promote job opportunities in the New Zealand tech sector to potential candidates; and to build a database of people interested in working in New Zealand.

Trade Show, 15-18 March 2015

Attend the SXSW Trade Show and participate in the 'NZ tech - live, work, play' shared stand and promote your company to the world.

This stand is a partnership with [Immigration New Zealand](#), NZTech, [Grow Wellington](#), [New Zealand Music](#) and participating technology companies.

Participating tech companies will be able to talk with visitors about their products and services; use the stand as a base between other business activities, attending conference presentations and networking.

This part of the event is ideal for testing market opportunities, looking for potential customers, positioning for investment and further recruitment discussions. The SXSW Trade Show also has a constant stream of world leading presentations and workshops.

Jackie Clark, New Zealand Technology Industry Association, M: +64 27 408 0217 P: +64 9 475 0202 E: jackie.clark@nztech.org.nz, W: www.nztech.org.nz

AmCham members special offer 35% discount

New speakers announced for 'Project 15' - this year's most innovative conference

Project 15 – a conference focused on 'taking New Zealand Innovation Global' has announced four new world-leading speakers to the already impressive line-up of local and international experts, which include: -

Steve Sammartino (Australia), start up wizard;
Melissa Clark-Reynolds (New Zealand), serial entrepreneur;
Josh Daniell (New Zealand), crowdfunding innovator; and
William Palmer (New Zealand), movie-loving CEO.

Who will join the following international speakers: -

James Whitaker (USA), Microsoft's chief tech evangelist;
David Smith (USA), celebrated author and educator; and
Dave Schiff (USA), creative heavyweight from one of the America's leading ad agencies.

The conference will take place on 16-17 April 2015 at AUT University, Auckland and will also host a variety of local speakers including Vaughan Rowsell, Mark Thomas, Malcolm Rands, Dr. Claire McGowan, Dr. Jane Cherrington and Dan Kahn. The full list of *Project 15* speakers will be announced in early March.

"We're really excited to bring such an engaging line up of speakers together for Project 15", says event executive producer, Martin Bell. "New Zealand is seen as a leader in innovation but the next step for local entrepreneurs and exporters is taking our expertise to the world. Project 15 is future focused and will challenge the way we react to the challenges of new technologies, new business models and the emergence of new market strategies. The conference is for anyone interested in making a difference for their business and career."

The format for *Project15* will include a full day of speaker sessions followed by a half day of tailored workshops. The conference will also form part of an extended series of activities during 2015 which includes regular *Project Connect* networking.

(Continued on page 8)

Register now to take advantage of the last days of our early bird special rate of \$449 inc. (valid until 28 February, save \$150)

Enter Promo Code PARTNER35

[CLICK HERE TO REGISTER](#)



Supporting
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Project 15 (Continued from page 7)

Project 15 is a collaboration between founding partners AUT University, The US Embassy and Social Media New Zealand.

The deal is:

Associate Partner Offer \$389 (35% discount – save over \$200! Full price \$599)

Offer available only until 28 February Just enter the promo code: PARTNER35 At point of purchase to redeem this price.

LEGAL ISSUES

In partnership with the Chamber, our objective is to provide Chamber 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.

THE US WEST COAST PORTS LABOR DISPUTE: **FORCE MAJEURE?**

Many New Zealand exporters to the United States have felt the impact of the ongoing labour dispute between the US Longshore and Warehouse Union (“ILWU”) and the Pacific Maritime Association (the association which represents US West Coast cargo carriers, terminal operators and stevedores). The dispute’s central issue concerns disagreements between the dockworkers and the port owners and shippers over a new collective bargaining agreement (the employment contract which applies to all union members).

Labour disputes such as this one definitely affect the ports’ productivity, as both side engage tactics to put economic pressure on the other side to agree to their terms. Part of the ILWU’s alleged tactics have been a work slowdown, where dockworkers purposefully slow down their productivity as an informal means of putting pressure on the members of the Pacific Maritime Association during the negotiations. The ILWU denies conducting a slowdown, as for the most part it is an illegal unfair labour practice under US federal law. The ILWU blames the loss of productivity on port congestion caused by chassis dislocation, near record container volume, and the inability of most terminals to handle larger vessels. On the rather foreboding date of Friday the 13th of February, the dispute reached a boiling point with a partial suspension of port operations by the Pacific Maritime Association in retaliation against the ILWU workers for their alleged slowdown tactics.

Under US law, the White House can sometimes intervene in a labour union dispute under the Taft-Hartley Act (also known as the Labor Management Relations Act of 1947 codified in 29 USC Section 401-531). The Taft-Hartley Act regulates the right to strike and prohibits unfair labor practices such as slowdowns by unions and lockouts by employers. The allegations that both sides are employing these tactics in the current dispute brings about the likelihood that the White House could intervene here with a Taft-Hartley injunction, which asks a US court to order that any slowdown or lockout be temporarily suspended (for 80 days) while negotiations continue. The President is authorized by the Act to ask for such an injunction where “a threatened or actual strike or lockout affecting an entire industry...will, if permitted to occur or to continue, imperil the national health or safety.” 29 USC §176. It is apparent that the port congestion imperils the US economy. However, whether President Obama would intervene with a Taft-Hartley injunction is unknown; as such a move would be politically unpopular amongst his Democrat supporters.

The impact of the congestion at the West Coast ports has been felt around the world, as these ports serve as a major conduit of the global supply chain. The impact of the congestion on NZ exporters is evidenced by rising shipping rates and the increased necessity for compulsory air freight shipments to get NZ goods into the US in order to fulfill contractual obligations on delivery targets. This places major pressure on Kiwi companies’ profit margins and may cause claims for breach of a supply agreement when delivery obligations are unfulfilled. To complicate matters even further, for NZ exporters who have shipping terms which place the expense for shipping to their distributors’ or end-customers’ location in the interior of the United States (ie, shipping under the Incoterm DDP), interstate trucking rates are expected to skyrocket once the port congestion issues clear up and the containers are unloaded.

NZ exporters with decent contracts or purchase order terms and conditions with their US counterparts may have a very important mechanism to ease the burdens caused by the port congestion dispute under the *force majeure* clause. Under US law, a *force majeure* clause excuses performance under a contract where there are certain acts of God, war and civil unrest issues, and often times also strikes and labour disputes, which prevent performance of the contract. However it is important to note that the increased cost of shipping cannot alone trigger a *force majeure* claim unless those costs are insurmountable.

In order to determine whether the *force majeure* applies to an agreement, a review of the clause is required in order to determine if labour disputes are specifically covered. A well-drafted *force majeure* clause will list all the specific events which could trigger the clause’s protections, may set up a notice procedure that the exporter must follow, and will detail the effects of the clause’s protections (such as suspension of performance or termination of the contract).

While the end of the labour dispute causing the massive congestion of the West Coast ports is in sight, the headache it has caused for NZ exporters is likely to reverberate for quite some time. If an NZ exporter’s contract contains a *force majeure* clause covering labour disputes, this could potentially save the exporter from huge losses or breach of contract claims. NZ exporters should check their contracts to determine if the *force majeure* clause provides this type of protection, and should consider inclusion of this term in the future on all contracts if they do not

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