OECD REVIEWS ON FOREIGN DIRECT INVESTMENT

NEW ZEALAND

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NOUVELLE-ZÉLANDE

Foreword

This report examines direct investment in New Zealand. It is part of a new series of country examinations carried out jointly by the OECD Committee on Capital Movements and Invisible Transactions and the Committee on International Investment and Multinational Enterprises. These two committees, whose members are officials from ministries of finance, commerce, trade and industry, and from central banks, promote liberal, non-discriminatory foreign investment policies through the OECD Codes of Liberalisation and the National Treatment Instrument.

The report has been reviewed and adopted by both committees and was derestricted by the OECD Council on 8 March 1993. Factual updating has been made through November 1992.

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Introduction

This report discusses New Zealand's foreign direct investment (FDI) trends, the role FDI has played in the structural adjustment process since 1984, motivations behind New Zealand's liberalisation measures, and the significance of the recently announced new policy towards FDI. It also discusses other possible impediments to direct foreign investment in New Zealand such as those related to the competitive structure of the New Zealand economy and the behaviour of the private sector.

New Zealand's extensive programme of economic reform that was launched in the mid-1980s led to sweeping regulatory changes on several fronts. In the FDI area, the changes have been more gradual but firmly in the direction of increased liberalisation. The new policy orientation has significantly improved New Zealand's investment climate and increased foreign investors' confidence. Inward direct investment has been substantial and steadily increasing in various sectors. Indeed, partly as a result of a large foreign involvement in the New Zealand privatisation programme, FDI has recently reached one of the highest ratios to GDP among OECD countries.

Further liberalisation of the FDI regime are expected to come into force in early 1993. The present screening and approval mechanism will be streamlined and made faster, and criteria for approving investments will be limited and made clearer to investors. The Government will actively encourage inward direct investment by establishing an investment promotion function, but does not intend to offer any special investment incentives, believing that economic growth, macroeconomic stability and a liberal investment regime will attract serious and committed investors. Statistical collection and analysis is expected to improve under the new policy.

Despite these improvements, certain incoming investment will continue to be subject to approval. This will include greenfield as well as acquisition investment above certain levels and in certain sectors. The New Zealand authorities are keeping these requirements in response to public concerns about maintaining a capacity to screen investors. However, the Government intends to continue to apply these criteria liberally and to make clear in the legislation the law's liberal intent.

FDI into New Zealand has been on the rise, in part, because of opportunities arising from New Zealand's extensive privatisation programme and the Government's receptivity to foreign participation therein. Direct investment from Asian countries has also been steadily increasing recently, which reflects New Zealand's growing commercial ties with countries in the region. As in other OECD countries, it appears FDI into services in New Zealand is rising. On the outflows side, most New Zealand investment abroad has gone to Australia and EEC countries, with a number of projects in distribution, hotels, and transport.

This report is organised as follows: Chapters 1 and 2 analyse FDI's role in New Zealand's economy and New Zealand's policies toward FDI. Chapter 3 provides concluding comments and the prospect of future liberalisation in New Zealand. There are eight annexes. The first annex explains the role of the OECD instruments in promoting liberal FDI policies, and details New Zealand's position under these agreements. Annex 2 explains FDI data collection in New Zealand, while Annex 3 shows the percentage of overseas equity ownership in New Zealand enterprises in 1991 and 1992. Annexes 4 and 5 give statistics on foreign take-overs and business commencements in New Zealand. Annexes 6 and 7 provide a chronology of events affecting FDI in New Zealand and other useful references. Finally, Annex 8 provides statistics on direct investment flows in OECD countries.

Chapter 1

The role of foreign direct investment in New Zealand's economy

1. Definitional questions*

Foreign direct investment statistics in New Zealand show a number of gaps, particularly since the abolition of exchange controls in 1984. Efforts are underway, however, to improve the collection of statistical data. This includes a new expanded survey introduced in 1990, better co-ordination within the statistics department, and greater comparability of statistics.

Also, FDI statistics in New Zealand do not distinguish between greenfield and other investment, in part, because the New Zealand authorities do not consider it particularly important to differentiate between the two forms of FDI. In the New Zealand authorities' view, what is important is that the investor bring technical, financial, and other advantages to the company to make it more competitive, and create or save jobs while building a sound business and industrial base. Taking large stakes in a New Zealand company involves exposure to the domestic economy and implies a commitment to New Zealand, another important factor in FDI policy in New Zealand.

* A foreign direct investment is generally defined in New Zealand as an investment by a non-resident where the level of non-resident ownership "is sufficient or likely to give the investor an effective element of control over the management and activities of the business." The New Zealand authorities find it difficult to determine whether non-resident investors, in fact, have an effective element of control over a business's management or activities, but the usual practice in New Zealand is the following: if foreign investors control 25 per cent or more of the voting share capital of a company that company is treated as an "overseas company".

2. FDI inflows, home countries and sectors

Until the initiation of New Zealand's policy reforms in 1984 (briefly recalled in Chapter 2) FDI seems to have played a relative minor role in the New Zealand economy. With an average annual inflow of NZ$ 108.9 million during the 1951-84 period, inward direct investment represented a rather modest contribution in relation to other OECD countries of comparable size. Outward direct investments were kept at low levels by severe exchange controls. FDI flows were determined by historical (United Kingdom) and geographical (Australia) factors.

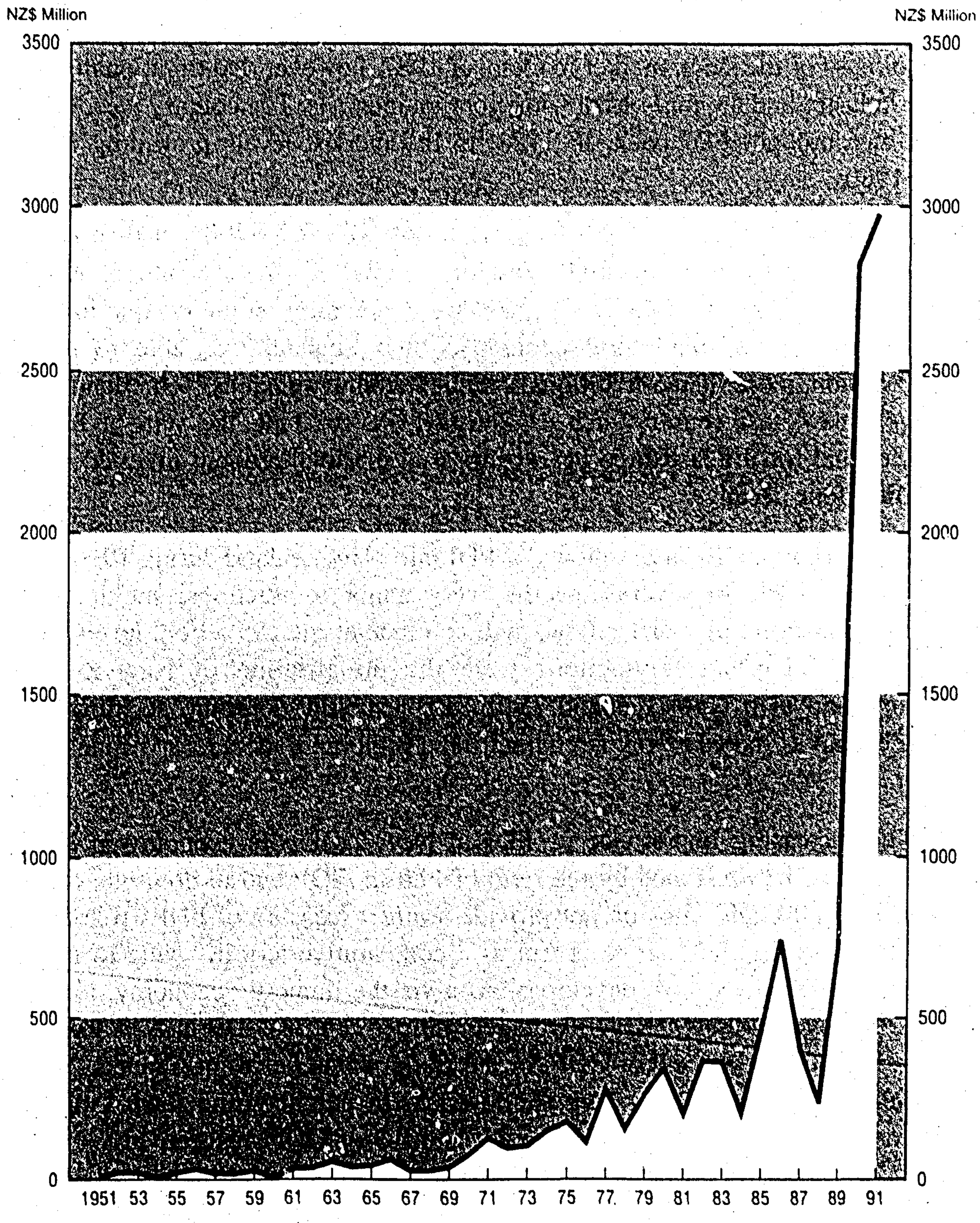
The 1984 reforms also affected FDI flows (Table 1 and Chart 1). Two subperiods can be distinguished. During 1984-1987 considerable investments materialised following the abolition of exchange controls, the deregulation of the

Table 1. **Direct investment flows, 1973-1991**[a]

	Inward	Outward
	NZ$ million	
1973	106	3
1974	153	14
1975	180	15
1976	115	18
1977	279	37
1978	159	31
1979	264	54
1980	343	73
1981	204	118
1982	366	115
1983	364	604
1984	205	54
1985	456	349
1986	745	166
1987	402	949
1988	238	938
1989	725	226
1990	2 824	3 961
1991	2 976	912
Total 1951-88	5 436	3 617
Total 1989-91	6 525	5 099

a) Balance of payments statistics.
Source: New Zealand Department of Statistics.

Chart 1. **Foreign direct investment flows**
1951-1991



Source: New Zealand Department of Statistics.

financial sector and the removal of barriers to entry into the banking and stock-broking sectors. From only five banks prior to the reform, the number of registered banks totalled 16 at the end of 1986 with major foreign banks represented. The collapse of the stock market in October 1987, however, led to rationalisation of the industry and the pull out of some foreign interests. The country's economic difficulties brought FDI back, in 1988, to the modest levels prevailing in the early 1980s.

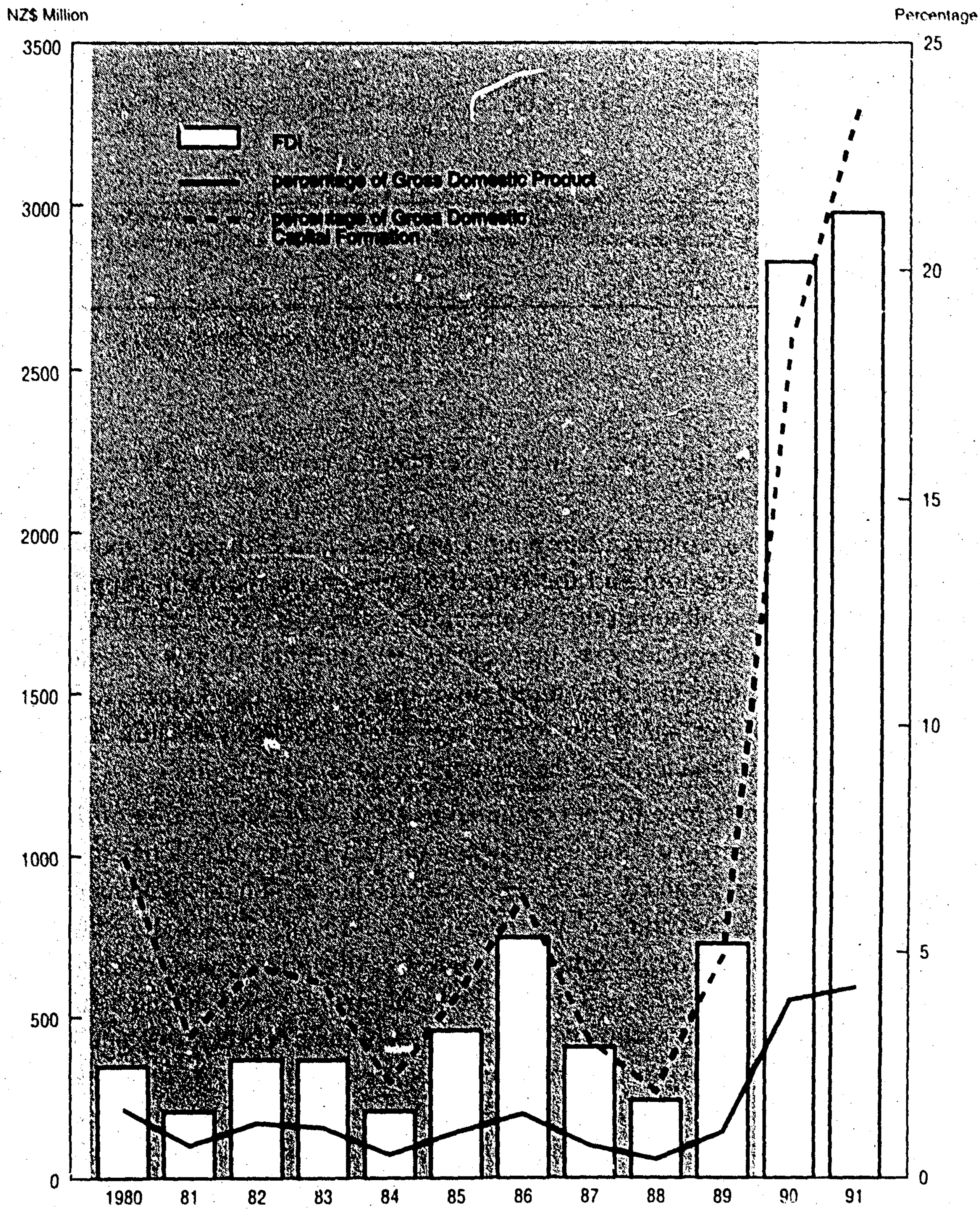
FDI took off again in 1989 to the level of NZ$ 0.7 billion; it then experienced a fourfold increase in 1990, reaching a total of NZ$ 2.8 billion. And in 1991, when outflows by OECD countries were generally on the decline because of the downturn of the world economy, New Zealand was able to attract NZ$ 3 billion, more than a traditional recipient country such as Netherlands or a relatively new host country such as Portugal. As a result, the sum of FDI in New Zealand for the last three years surpassed the total amount invested in the preceding four decades.

The exceptionally large inflows of FDI into New Zealand during 1990-1992 were partially due to several specific, very major transactions, and it is not expected, therefore, that FDI inflows will continue at the 1990-1992 levels. Two particularly important transactions were the privatisation of New Zealand Telecom and Air New Zealand. Still, FDI should continue to flow into New Zealand as the economy strengthens and regional trade and investment ties deepen.

The increasing importance of FDI in New Zealand's economy in recent years can also be illustrated by the ratio of FDI to GDP and to domestic capital formation. FDI-GDP ratios do not provide a direct measure of FDI's role in the domestic economy, but can be useful as a comparative tool in trying to understand how FDI flows have developed vis-a-vis the domestic economy. Chart 2 shows that over 1990-1991 FDI averaged 4.0 per cent of GDP in New Zealand compared with 1.9 per cent of GDP for Australia, 1.0 per cent for Canada, 2.1 for the Netherlands and 1.8 per cent for Sweden. In neighbouring East Asia, this ratio averaged for Taiwan and Korea 1.2 and 0.3 of GDP, respectively.

FDI inflows did not make a large contribution to the financing of the current account deficits of New Zealand's balance of payments which, as shown in Table 2, were largely compensated by major borrowings abroad. In 1991, how-

Chart 2. **FDI as a percentage of GDP and GDCF**
1980-1991



Source : New Zealand Department of Statistics.

Table 2. **Capital transactions**

NZ$ million

Year end 31 March	1986	1987	1988	1989	1990	1991
Balance of Current Account	–4 013	–2 878	–2 506	–707	–2 576	–2 088
Net Apparent Capital Inflow[a]	4 629	8 235	1 239	–979	3 969	3 006
Inward Direct Investment	745	402	238	725	2 824	2 976
Outward Direct Investment	166	949	938	226	3 961	912
Net Direct Investment Flow	579	–547	–700	499	–1 137	2 064

a) Equals total capital inflows (including the residual) less total capital outflows. Omissions form part of the residual. Therefore, the inclusion of the residual of the net apparent capital inflow means that these capital flows are apparently measured.

Source: New Zealand Department of Statistics.

ever, when FDI was at its peak, direct investment accounted for a large proportion of capital inflows.

Looking at the country distribution of these flows, Table 3 shows that Australia, United Kingdom and the United States remain the main suppliers of FDI in New Zealand although their contribution seems to have varied from year to year. There also seems to be an increasing diversification of New Zealand FDI sources. For instance, in 1991, direct investment from the United Kingdom turned negative. Japan started to invest significant amounts, notably in 1990, although they were smaller than the sums it invested in Australia.

Australian direct investment continued to grow as the integration of the two economies progressed with the implementation and further development of the 1983 Australia New Zealand Closer Economic Relations Trade Agreement. But in 1991 Australia's contribution was negative as a result of a net divestment of equity and negative earnings. Since the mid-80s Australian investors have been mainly involved in mergers and acquisitions, allowing New Zealand's firms to enter larger international groups which should help their restructuring and development. According to Australian statistics, Australian direct investment in New Zealand was the third largest of Australian outward direct investments in 1990 (8 per cent of total). With an extensive double taxation treaty under discussion between the two countries which would remove current problems of double taxation of dividends, FDI flows across the Tasman may increase in the future.

Table 3. **Foreign direct investment flows to New Zealand by country of origin, 1984-1991**[a]

NZ$ million

	1984	1985	1986	1987	1990	1991
OECD countries	149	446	738	403	2 671	2 491
EEC	–19	101	273	107	751	–423
United Kingdom	–13	145	241	95	735	–570
Other	–6	–44	32	12	16	147
North America	9	155	274	343	271	3 732
USA	9	155	274	357	297	3 742
Canada	–	14	–26	–10		
Other OECD Countries	159	190	191	–47	1 616	–826
Australia	159	190	162	–40	1 237	–909
Japan	..	..	6	–23	379	83
Non OECD Countries	57	9	7	–1	153	485
Latin America and Caribbean	..	..	6	–23	379	..
Asia and Oceania	..	..	4	–6	110	488
Other[b]	57	9	2	3	14	–3
Total	205	456	745	402	2 824	2 976

a) Data from the Balance of Payments.
b) Data for other EEC countries and other OECD countries included in the subtotal; data from 1988 and 1989 are not available
.. = Nil.
Source: New Zealand Department of Statistics.

The United States proved to be, as a result of a large transaction, the single largest investor in 1991 with a contribution of NZ$ 3.7 billion, following more modest investments since 1984 (see Table 3). American MNEs in finance, tourism, trading and media services, have been fast moving into New Zealand's recently deregulated and privatised services sectors. New Zealand also seems to have served as a base to American MNEs for expansion in the Pacific basin. For example, Telecom New Zealand, after its take-over by an American consortium in 1990, has significantly expanded in the region. After winning contracts in Western Samoa, Cook Islands and Fiji, the company is looking for much larger markets in Australia, Indonesia and Vietnam.

Another important development is the substantial increase in direct investment from Asian economies in the last two years, which would seem to reflect New Zealand's growing ties with the region. Since 1990, the number of Asian countries appearing in New Zealand's ten top trading partners has doubled. Asia now represents more than 30 per cent of commercial flows of the country, and direct investment from Asia is expected to continue in the foreseeable future. Sometimes investment has not followed trade, however, as in the case of Korea, which is New Zealand's fourth largest trading partner but has invested very little in New Zealand.

Direct investment from Singapore, Taiwan, and Malaysia was found in a wide range of activities. Taiwan is present in fisheries, chemicals, rubber production and trade. Singapore's investment is found in light manufacturing, but also in services industries. A number of investment projects from China have also been approved. Malaysian and Chinese investment has not been large, but its investors' involvement in wood transformation has strengthened the capacity of the New Zealand local industry, which was previously confined to logging.

Despite poor data on the industrial distribution of FDI in New Zealand, existing information suggests that, as in other OECD countries, the services sector has attracted the largest share of FDI since 1984 (see Table 4). As indicated before, FDI was initially directed at financial services which was the first sector to be deregulated. More recent FDI figures on the Overseas Investment Commission's (OIC) approvals for 1990 and 1991 show a distinct diversification in other service industries, such as air transport, insurance, telecommunications and communications, where large foreign participations were allowed following privatisation.

For instance, the Australian airline Qantas (19.9 per cent), American Airlines (7.5 per cent) and Japan Airlines (7.5 per cent) acquired significant shares in Air New Zealand. State Insurance was sold to Norwich of the United Kingdom, which won the bid out of the 25 institutions that expressed interest in the government's general insurance office. New Zealand Telecom Corp. was acquired by a consortium with strong US interests, giving American companies a foothold in the Pacific region, one of the fastest growing telecommunications markets in the world. Another US consortium secured a majority shareholding of Sky Network Television Ltd. This consortium successfully bid for four of New Zealand national channels for subscription services as well as several of the local transmitter locations. More recently, the National Australia Bank acquired 100 per cent shareholding in the Bank of New Zealand. (The Crown had previously held a 58 per cent shareholding in the Bank of New Zealand). This represents a major new Australian investment in the New Zealand economy.

Table 4. **Foreign direct investment flows by industry, 1984-1991**[a]

NZ$ million

	1984	1985	1986	1987	1991
Primary	−16	−15	189	−26	545
Agriculture	2	1	−3	2	431
Mining and Quarrying	−19	−16	192	−28	114
Oil	..	..	..	..	..
Secondary (manufacturing)	−34	178	149	205	1 673
Food, beverages, tobacco	51	29	−4	65	...
Textile, leather & Clothing	3	8	−2	−10	...
Paper & Allied	6	12	8	17	...
Chemicals & Allied	−13	33	36	28	...
Coal and Petroleum Products	..	..	..	..	...
Non-Metallic	4	1	6	3	...
Metals	20	12	16	−5	...
Mechanical Equipment	25	102	..	..	...
Electrical Equipment	..	..	..	..	...
Motor Vehicles	..	..	15	79	...
Other transport	..	..	..	..	...
Other Manufacturing	−130	−19	74	28	1 673
Tertiary	256	293	407	223	4 309
Construction	1	17	14	11	105
Wholesale & Retail trade	109	48	54	−268	847
Transport & Storage	−53	−48	−13	−16	648
Financial, insurance & Business Services	189	268	315	439	994
Communications	..	..	..	..	250
Other Services	11	8	37	57	1 465
Unallocated	..	..	..	..	85
Total	206	456	745	402	6 612

a) From 1984 to 1987 data are from the balance of payments statistics; data for 1988, 1989 and 1990 are not available. For 1991 data refer to approvals as registered by the Overseas Investment Commission; total FDI registered in the balance of payments is NZ$ 2.976 billion (provisional data).

.. = Nil.

... = Not available.

Source: New Zealand Department of Statistics and Overseas Investment Commission.

A number of projects were also registered in transportation, notably shipping. Tourism attracted significant investment from Japan in hotel projects and property investment. There have been three major Japanese hotel investments in New Zealand recently linked with similar projects in Australia.

In manufacturing, investment has been concentrated in chemicals, metals, wood and food products. In fact, according to Overseas Investment Commission

Table 5. **Employment by foreign multinational enterprises, 1986 and 1990**

	1986			1990		
	Number of enterprises	Number employed	Total employed	Number of enterprises	Number employed	Total employed
Primary	74	466	31 220	84	606	27 540
Agriculture, forestry and fishing	42	185	25 691	27	280	23 343
Mining and quarrying	32	281	5 529	57	326	4 197
Manufacturing	506	55 192	304 748	624	59 681	258 238
Services	1 390	62 011	829 568	2 113	84 435	917 656
Construction	72	3 658	78 638	59	2 172	83 276
Electricity, gas and water	1	..	13 717	..	..	13 031
Financial and business services	458	22 882	98 516	812	24 029	141 184
Trade and restaurants and hotels	679	23 669	264 736	962	39 668	280 896
Transports and storage and communications	120	4 360	103 057	181	16 731	87 632
Social services	60	7 442	270 904	99	1 815	311 637
Total	1 970	117 669	1 165 536	2 821	144 722	1 203 434

Source: Department of Labour, Wellington, and ILO, Geneva.

(OIC) figures, the largest number of take-overs and new businesses registered in 1991 was in manufacturing. FDI in agriculture and mining has generally been on the decline, however, since 1984.

FDI has accounted for an increasing proportion of employment in New Zealand which is an important element in the economy's structural reform. New Zealand jobless level is expected to rise to 11.8 per cent this year and 12 per cent in 1993. Table 5 shows that the number of people engaged by foreign MNEs increased from 10 to 12 per cent of total employed between 1986 and 1990. This share has been even higher in manufacturing, where foreign firms employment increased from 18 to 23 per cent of total employment over the same period.

3. FDI outflows, host countries and sectors

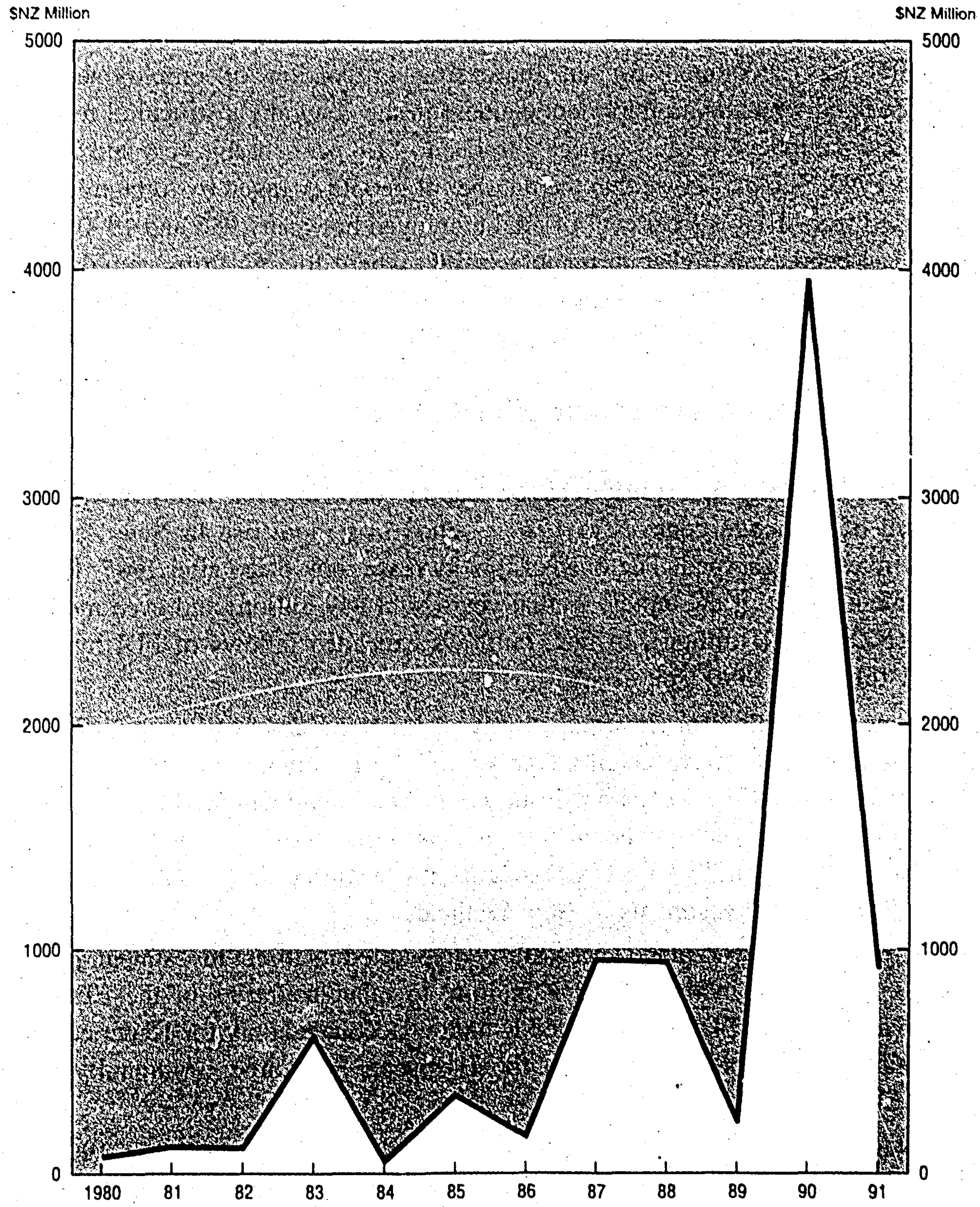
After keeping the restrictions on capital outflows for many years, the removal of exchange controls in 1984 resulted in a rapid rise in New Zealand direct investment abroad. The bulk of this increase took place after 1987. Direct investment abroad grew rapidly in that year (NZ$ 949 billion) and even more in 1990 (NZ$ 3 961 million). In fact, outflows exceeded inflows of FDI by over NZ$ 1 billion in 1990 (see Chart 3).

New Zealand's firms invested mainly in Australia and in EEC countries. In Australia, they may have taken advantage of the economies of scale resulting from Australia's New Zealand Closer Economic Relations Trade Agreement. These investments went in tandem with increased trade flows. As in the case with exports, New Zealand's direct investments to Australia significantly exceeded Australia's direct investments to New Zealand.

In Europe, New Zealand successfully diversified its direct investment, previously concentrated in the United Kingdom, to other countries of the EEC. In 1991, New Zealand FDI to the United Kingdom accounted only for 15 per cent of the total equity capital invested in the European Economic Community (see Table 6).

New Zealand FDI to Asia and Oceania (other than Australia) in 1990-91 represented around 20 per cent of total. Unfortunately, the statistics do not allow for a distinction between the two regions but most of this investment was probably directed to East Asia. New Zealand has the largest Polynesian popula-

Chart 3. **Direct investment abroad**
1980-1991



Source : New Zealand Department of Statistics

Table 6. **Direct investment abroad by country, 1984-91**[a]

NZ$ million

	1984	1985	1986	1987	1990	1991
OECD countries	82	291	157	949	4 136	1 190
EEC	11	76	10	97	273	1 766
United Kingdom	11	76	10	97	361	272
Other	..	..	..	..	−88	1 494
North America	−53	58	−85	80	445	−25
USA	−53	47	−85	80	37	−408
Canada	..	11	−47	2	408	151
Other OECD countries	124	157	223	768	3 418	−319
Australia	124	178	173	733	3 402	−324
Japan	..	−21	50	35	16	5
Non-OECD Member countries	−28	51	9	0	546	−278
Latin America and Caribbean	..	..	77	103	−146	−546
Asia and Oceania	..	50	−64	−63	689	268
Other[b]	−28	1	−4	−40	3	..
Total	54	349	166	949	3 961	912

a) Data from the Balance of Payments.
b) Other EEC countries and other OECD countries included in the subtotal; data from 1988 and 1989 are not available.
.. = Nil.
Source: New Zealand Department of Statistics.

tion in the Pacific and investment to the neighbouring islands is encouraged within the framework of regional co-operation agreements (SPARTECA).

The sums attracted by North America have been modest by comparison although the amount invested in Canada in 1990 represented over 10 per cent of total New Zealand outward FDI in that year. Canada and New Zealand, both members of the Commonwealth, have traditional economic links. The Canada-United States Free Trade Agreement has enhanced Canada's attraction as a gateway to the North America market.

There is very little information on the sectoral distribution of New Zealand FDI outflows. The current energy crisis in New Zealand, caused by the drying up of the South Island's hydro lakes, may have stimulated some energy related investment. Power Design Build, affiliates of Electricorp (SOE), has invested in Indonesia. Petrocorp, privatised in 1988, is to lead the first foreign consortium to win an exploration licence in mainland China. Petrocorp has recently also invested in several producing gas fields in Canada.

In the pulp and paper industry, Carter Holt Harvey, one of the largest listed New Zealand company, has realised a large investment in Chile, which is the cheapest producer of paper pulp before New Zealand. This is an example of a strategic investment by a New Zealand company seeking better sourcing through globalisation. New Zealand companies are also involved in chemicals and rubber products. In the services sector, Brierly made the largest recent investment by acquiring 70 per cent of the second hotel chain in the United Kingdom, Mount Charlotte. Many investment projects are registered in distribution trade and transport. New Zealand also invested in US real estate.

Chapter 2

New Zealand's foreign direct investment policies

1. Background

New Zealand has long been a net FDI recipient. But because of the small size of its economy and its limited resources, New Zealand has also felt compelled to control the entry and operating conditions of foreign investors to ensure that economic benefits would accrue without undue foreign control. Likewise, prior to 1984, outward direct investment was limited to operations considered beneficial to the New Zealand economy and its exports.

This general philosophy led to the creation, in 1973, of a general screening system for inward direct investment. The Overseas Investment Commission (OIC) was given the mandate to maximise the benefits from such investments while making certain that ownership and control of New Zealand resources was not unwisely or unnecessarily transferred to overseas residents. Foreign investment proposals were assessed on the basis of detailed criteria ranging from the contribution to employment, exports, productivity, innovation, taxation yields, degree of local participation and compatibility with government policies. Foreign investors were expected to bring in most of their capital from abroad, and takeovers were looked upon favourably only if they brought substantial new benefits to the New Zealand economy that could not be provided through local ownership.

a) Reforms in the 1980s

By the early 1980s, the application of this policy had become more liberal even though its fundamentals remained unchanged. Foreign investment projects were generally approved if they provided overall net benefits to the New Zealand economy. The majority rule was no longer insisted upon and foreign ownership limitations were confined to agriculture and services.

Since mid-1984, New Zealand has been engaged in an extensive programme of regulatory reforms designed to reverse a steady post-war decline in economic performance, and to break away from the pattern of an inward looking, commodity dependent and market distorted economy. The first steps involved the abolition of exchange controls, the deregulation of the financial sector and the open-market funding of the fiscal deficit. But a continuous process of policy reform also commenced to phase out import protection, cut down export subsidies, reorganise the public sector, remove price and wage distortions, promote private investment and create a more competitive and distortion-free business environment.

Removal of FDI restrictions has been an integral part of these post-1984 regulatory reforms. The pace of liberalisation, however, has been more gradual than in some other areas, with important changes still to be implemented. Nevertheless, the 1984 policy shift marked the beginning of deliberate steps to increase FDI involvement in the New Zealand economy. The review thresholds for foreign investment proposals was raised from NZ$ 100 000 to NZ$ 500 000 in July 1984, and again to NZ$ 2 million in April 1987. The limits on foreign participation in New Zealand financial institutions other than commercial banks (previously 70 per cent), in advertising agencies (40 per cent) and in land-based fish processing plants (49 per cent) were abolished in March 1985. In July 1985, the government announced that it was willing to allow 100 per cent foreign participation in all areas except rural land and air services.

By the end of 1989, the review threshold was raised fivefold to NZ$ 10 million. Large-scale investments in natural resources industries were no longer resisted and foreign participation in the privatised air transport and broadcasting media business was allowed up to 35 and 15 per cent respectively. In 1990, the demonopolised telecommunications sector was opened up to a 49.9 per cent foreign participation.

b) Reforms in the early 1990s

Most recently, in December, 1991 the New Zealand Government announced a new policy approach to FDI, aimed at promoting FDI and making it easier to invest in New Zealand. Two categories of investment – general and sensitive –

will be established within the present financial year. Investments less than NZ$ 10 million in the general category will not need approval. Those over NZ$ 10 million will be subject to a *bona fide* investor test that will demonstrate the investor's seriousness of intent. Sensitive investments will essentially be limited to any land exceeding five hectares, and islands of land adjoining the coast or lakes in excess of one hectare; they will be subject to a *bona fide* test as well as net benefit test. Legislation is being drafted to put this new approach into force, and it is hoped to that it will become law in the first half of 1993.

The reasons behind the New Zealand government's change in approach can be summarised as follows. First, the New Zealand authorities want to formalise in legislation the more liberal and receptive approach towards FDI has been in place since the late 1980s. Indeed, the changes in FDI policy are more in approach than in substance, as the formal rules are being brought into line with liberal practice. Second, the New Zealand government wants to consolidate the laws concerning foreign direct investment into a single act – at present the Land Settlement Act sets down the legislation for the treatment of investment in land. Putting all FDI questions into one legislative act will increase transparency and make investing in New Zealand simpler. Third, there is a desire to charge one single body – the Overseas Investment Commission – with responsibility for approving all investment applications. The Department of Lands presently handles approvals of land investments.

As part of its new approach to FDI, the government is also establishing an investment promotion function, to be shared by the Ministry of External Relations and Trade, the New Zealand Trade Development Board (TRADENZ), and private companies, and charged with increasing the amount of "quality" FDI going into New Zealand and developing a broader understanding of FDI's benefits for the economy. The Ministry of External Relations and Trade will be responsible for generic promotion efforts and for co-ordinating official responsibilities among government agencies. TRADENZ will establish a help desk for foreign investors and a data base of financial intermediaries in New Zealand who can facilitate FDI into various activities. An Investment Advisory Group has been set up by the Prime Minister to advise the government on an investment promotion strategy. It consists of private sector representatives, one of them chairs the group, and key government bodies with TRADENZ providing the secretariat.

There will probably not be a "one stop shop" for prospective investors, but the OIC will take on the FDI functions that were formerly shared with the Office of Crown Lands, while TRADENZ will be prospective investors' main contact point. No special investment incentives will be provided because the government believes that economic growth and macroeconomic stability and a liberal investment regime will attract serious and committed foreign investors.

The Overseas Investment Commission will continue to screen applications for greenfield investments above certain thresholds and in certain areas, even though this practice has disappeared in the great majority of OECD countries in recent years. The New Zealand government continues this practice in response to public concern about the *bona fides* of prospective investors, and to make sure investments in sensitive sectors benefit the New Zealand economy.

2. General issues

a) Authorisation/Notification procedures

New Zealand's current policy for screening and approving foreign direct investment is designed to ensure that foreign investment inflows bring overall net benefits to the New Zealand economy. The economic benefits of a foreign investment proposal may take the form of new technology, increased competition, new export markets, job opportunities, or other benefits. Foreign investment need not contribute to each and every one of the above areas, but the current screening procedures are designed to ensure that a foreign investment project brings overall net benefit to the New Zealand economy.

This policy will change when new legislation comes into force in 1993. The new law will establish two categories of foreign investment in New Zealand, "general" and "sensitive."

i) General investments

"General investment" proposals involving less than NZ$ 10 million will not require official clearance. This is the same as the current policy. What will be different under the new law is the criteria for approving proposals *over* NZ$ 10 million, which will be aimed at attracting *bona fide* and serious investors. Under the new system proposals over NZ$ 10 million in the general category will no longer be subject to a benefits test, but will be cleared if the following criteria are met:

- The investor has business acumen and experience;
- The investor places his/her own capital at risk;
- No investor with more than 25 per cent interest in the investment has a criminal record that would disqualify him/her from obtaining permanent residence in New Zealand.

Established foreign-controlled enterprises with 25 per cent or more of the company's voting share capital held by foreign residents who are not New Zealand citizens will also need approval for general category investments over NZ$ 10 million. Under the new regime, these investors will have already been scrutinised when they made their first investment in New Zealand, so approval for further investments should be straight forward.

ii) Sensitive investments

All investment proposals in "sensitive areas" will require official clearance. Sensitive areas are defined as *i)* any land exceeding five hectares in area, and *ii)* islands or land adjoining the coast or lakes in excess of one hectare.

Foreign investment in these areas is sensitive for historical and cultural reasons, among others. In regard to land, for example, the sensitivities that underlie concern about foreign investment relate to the fact that New Zealand's economy has always been and to a certain degree remains agriculturally-based although these concerns are not directed at rural land in particular. Land also has considerable cultural significance to the indigenous Maori population.

The criteria for approval in the sensitive category will include the three criteria for general investment discussed above, plus an additional requirement that the proposed investment makes a significant contribution to New Zealand's growth and development in one or more of the following areas:

- the introduction of new technology or business skills;
- the development of new export markets or increased market access;
- the creation of new job opportunities or the retention of existing jobs which would otherwise be lost;
- added market competition, greater efficiency or productivity and enhanced domestic services;

- introduction of additional investment for development purposes;
- plans to add value to the output of New Zealand's existing primary production in the form of any onshore processing.

Foreign investment in sensitive areas will therefore be subject to both a *bona fide* investor test and an economic benefits test. The New Zealand authorities have applied these criteria liberally in the past, and intend to continue applying them liberally in the future. Moreover, applications to invest in these areas represent a very small portion of the applications received by the Overseas Investment Commission. In 1991 such proposals accounted for approximately 25 per cent of the total applications received by the Commission.

The authorities hope to make clear in the new legislation the liberal intention of the law, so that in the future it may not be used to discriminate or hinder foreign investment. The main reason for keeping these screening requirements is to reassure the New Zealand public that its government is able to protect its interests by checking foreign investors' capacities and intentions.

iii) The role of the Overseas Investment Commission

The Overseas Investment Commission (OIC), which is composed of business representatives and government officials and operates under delegated authority from the Minister of Finance, will continue to consider all proposals to invest in New Zealand above NZ$ 10 million and all investments in sensitive sectors, be it the commencement of business operations or the acquisition of 25 per cent or more of any class of shares or voting power in a New Zealand company. Decisions on sensitive investments, will be taken, however, by the Ministers of Finance and Lands. Three private business representatives instead of two under the present regime, will provide (although not formally representing New Zealand's private sector) commercial knowledge and expertise to the OIC. This private/public sector mix makes the OIC more independent in both appearance and fact, and has worked well, according to the New Zealand authorities.

The average time for processing applications is presently seven to ten working days. Under the new system an investment proposal will be considered approved if the applicant does not hear from the OIC in ten working days. Foreign investors may seek a judicial review in the case of a refusal, but only on the basis that the application is refused for reasons that are outside the Act. There is no provision for legal review of Commission judgements, but so far none of these judgements have been questioned, in part because so few applications have been turned down: out of 6 000 applications only four have ever been denied.

b) *National security*

Unlike most other OECD Members, New Zealand does not have restrictions on foreign direct investment based on national security considerations. The motivations behind categorising certain sectors "sensitive" in New Zealand are not those normally associated with public order and security, but rather reflect a different kind of sensitivity, namely, those associated with natural resources and scenic reserves.

There are no investments currently considered essential to public order and national security that would require special clearance by the New Zealand authorities. An investment could be stopped or conditions applied to it under the general screening and approval procedures, but there are no special categories or activities that would be restricted for reasons of public order and security.

c) *Privatisation*

Privatisation of state-owned enterprises has been an important part of the government's economic plan. Since 1984 the government has undertaken a substantial programme of selling assets of public sector businesses, which have ranged from steel, shipping and minerals to air transport, banking, insurance, and health information services.

The details of the arrangements for the sale of the government's assets have varied from case to case, depending on the nature of the business, but the New Zealand government has sought to make any restrictions clear at the outset. The restriction on foreign ownership of Air New Zealand to 35 per cent, for example, which is necessary to maintain majority New Zealand ownership of the airline for the purpose of international air treaties, was made clear from the beginning.

Restrictions on FDI in the privatisation of New Zealand enterprises have been the exception to the rule. The New Zealand Government has favourably viewed foreign participation in the privatisation process for a number of reasons. In a small economy like New Zealand's foreign investors can bring expertise that otherwise might not be available, and opening enterprises to foreign investment brings a wider range of quality bidders than would otherwise be the case. Foreign investors can also integrate New Zealand businesses into international networks, making New Zealand's economy more globally competitive.

The privatisation of telecommunications industry, airlines, and banks was preceded by a large public debate and supported by both parties in Parliament. Debate has today receded, with the public generally supporting the privatisation programme, including selling state companies' assets to foreigners. Indeed, the level of foreign participation in privatised firms, notably in transport, telecommunications and broadcasting sectors seems to be relatively higher than in other OECD countries engaged in the same process. Part of the reason the public has supported foreign investment in formerly state-owned enterprises is that the new owners have brought considerable assets to these enterprises, and services are expected to improve and expand as a result.

Foreign investors have played an important role in purchasing some of the Government's larger assets, too. For example, Bell Atlantic and the Ameritech corporation bought controlling ownership in New Zealand's Telecom in 1990, which is the largest New Zealand company by a significant margin. Norwich Union purchased numerous assets from the State Insurance Office the same year. And the National Australia Bank recently acquired 100 per cent shareholding in the Bank of New Zealand. (The Crown had previously held a 58 per cent shareholding in the Bank of New Zealand).

The New Zealand Government has not wanted to maintain an equity interest in the companies it privatised, but chose to maintain "Kiwi" or "golden" shares in two of the more important privatisations. Such shares have been used in the privatisation of Telecom and Air New Zealand to ensure that the country's broad national interest could not be undermined by a change of ownership in these companies. Also, as part of sale agreements with strategic buyers in the case of Air New Zealand and Telecom, the New Zealand Government has required the buyers to onsell shares to the public.

d) Rules, regulations and private practices

Various rules, regulations, private practices, or other requirements can have the effect, in many countries, of frustrating foreign investors. Often these rules are not aimed at foreigners specifically, but their impact falls more heavily and sometimes exclusively on foreigners.

There are no restrictions in New Zealand based on nationality or residence qualifications on the entry of professionals into their respective fields of activity. As in other OECD countries, educational qualifications are one factor in assessing eligibility, but the key factors are the restrictions applied by the authorities of various professions. For example, real estate agents must have a New Zealand real estate license; lawyers must be admitted to the New Zealand bar; educational courses leading to a nationally-recognised qualification must be approved by the New Zealand Qualifications Authority, and so on. It does not appear, however, that these requirements restrict foreign investors from participating in various professional and service activities in New Zealand.

Companies in some OECD countries engage in practices that have the effect, intended or not, of discriminating against foreigners. These practices include rules barring foreigners from holding seats on company boards, limitations on foreign participation in wholesale and distribution networks, and the practice of cross-shareholding, whereby companies, banks, and other financial institutions hold each others' stocks, making it difficult for foreigners to invest in those institutions.

Some New Zealand companies have engaged in practices that could have implications for foreign investors. For example, there are certain provisions in some New Zealand companies' corporate laws that restrict stock transfers to foreigners. In some cases, New Zealand companies' corporate laws specify conditions about which stockholders may sit on their board of directors. Both of these practices could make it difficult for foreigners to participate in a particular economic activity in New Zealand.

Finally, in the case of a number of OECD countries, the ownership and control structure and the concentration of finance and industry within those countries results in barriers to foreign investment. In New Zealand, there is little evidence at the aggregate level of exclusion of overseas ownership or domination by local enterprises. The Commerce Commission has legislative power to take action against companies abusing dominant market position, or seeking to assume one (by take-over, for instance) where this would be against the public interest.

e) Public monopolies

Postal services, electricity distribution, and railways are under public monopoly in New Zealand. The postal services are being liberalised over time, however, and electricity distribution is under review. In postal services, delivery to rural areas is a sensitive issue, where, as liberalisation proceeds, it may be desired to maintain a "Kiwi" share. Some suppliers are looking for equity investors from overseas, which is also causing some controversy in New Zealand.

3. Sectoral issues

New Zealand's sectoral restrictions on foreign investment are essentially in land and commercial fishing which are sensitive because of their importance to the Maori population. Detailed arrangements with respect to ownership of Air New Zealand limit foreign participation therein, and tax arrangements for mining companies vary between residents and non-residents. Incorporation is required to register a ship to engage in maritime transport. The New Zealand authorities have lifted restrictions on foreign investment in broadcasting.

a) Land

Investment in land is particularly sensitive to a significant portion of New Zealand's population. All types of investment by foreigners on land adjoining coastal areas and lakes, and investment involving islands in excess of one hectare will be considered sensitive investments. All types of investment in any other land in excess of five hectares will also be considered sensitive investments. As such, foreign investors will need to demonstrate net economic benefits under the new policy, in addition to passing a *bona fide* investor test.

The basic rationale for distinguishing between investments in land and those in the general category is that land is culturally more sensitive from a public and political perspective. Land also has considerable cultural significance to the Maori population.

The new act will draw no distinction between urban and rural land; all land in excess of five hectares will be considered sensitive investment and thus subject to a benefits and *bona fide* investor test. This is in recognition of land's political and social significance noted above.

Foreigners are the only group to whom the benefits test will apply in the purchase of land in New Zealand. The New Zealand authorities do not consider this a restriction on foreign investment; rather, its purpose is to ensure that foreign investments in land confer some economic benefit to New Zealand.

b) Fishing

When the government began issuing fishing quota rights in the 1980s, it provided that quotas would only be issued to New Zealand companies except with the consent of the Director of Agriculture and Fisheries. Part of the reason for this was that the government might have to buy the quotas back and give them to the Maori tribes, and it did not want to create international discord by forcing out foreign parties.

Under the fishing quota management introduced in 1986, however, there are no restrictions on foreign companies entering into joint ventures or charter arrangements to fish for any species, provided their holdings of shares or voting power do not exceed the 25 per cent limit. Quota licenses are only issued to New Zealand residents, but holders are free to onsell the benefits to foreign fishing companies. The quota licenses apply to commercial catches of 31 species of fish, and not to particular areas, *i.e.* inshore, offshore, lakes, etc.

c) Broadcasting

Until 1991 foreign investors were prohibited from acquiring 15 per cent or more of any class of shares or voting power in a New Zealand company engaged in radio and television broadcasting. The reasons for restricting foreign investment in radio and television broadcasting were related to cultural and social sensitivities, as is the case in some other OECD countries. There was a desire to promote programmes about New Zealand and New Zealand culture, Maori language and culture, and ensure a range of programmes for the interests of women, children, disabled persons, and ethnic minorities.

These restrictions on overseas ownership of broadcasters in New Zealand were removed in 1991, however, as the New Zealand Government decided that cultural and social objectives could be met through means other than restricting foreign ownership. These essentially involve various incentives designed to encourage programmes about New Zealand and its culture, Maori culture, programmes of interest to minorities, women, children, etc.

The removal of these restrictions was one result of the 1988 broadcasting policy review, which, among other things, was designed to enhance consumer choice and economic efficiency. Removing broadcasting from the sensitive sectors recognises the need for more investment than could occur with overseas ownership restrictions, provides further incentives to potential investors, and contributes to better provision of services and competition in the New Zealand broadcasting. In short, foreign direct investment was seen as playing a particularly important role in enhancing consumer choice and economic efficiency in this sector.

d) Air transport

Restrictions on foreign ownership apply only to Air New Zealand, which has a 35 per cent foreign ownership limit. The privatisation designated three classes of shares: "A" shares available to New Zealand nationals only; "B" shares limited to 35 per cent of total equity and available to overseas persons; and the 'Kiwi" shares held by the New Zealand government. The company's articles of association, which set out these limits, cannot be amended without the consent of the holder of the "Kiwi" share.

In addition, substantial ownership and effective control of international airlines operating scheduled service to/from New Zealand are to be vested in the designating country under bilateral agreement or nationals of that country.

In June 1992, an understanding was announced between Australia and New Zealand to free up trans-Tasman aviation to competition from Australasian airlines, and to introduce additional flexibility for expanded air links with other markets. Between 1 November 1992 and 1 November 1994 services across the Tasman sea will be progressively opened to Australasian carriers in addition to Quantas and Air New Zealand. New Zealand air carriers will have full access to the Australian domestic market from November 1994. Australian and New Zealand airlines will also be permitted to increase progressively the number of destinations, services and flights operating beyond Australia and New Zealand, subject to the agreement of third countries.

e) Maritime transport

Previously, only foreign companies established in New Zealand which were corporate bodies constituted in a Commonwealth country were entitled to register a ship in New Zealand, but this has changed under a new law passed 22 September 1992.

The new legislation is based on international conventions, especially the "genuine link" concept. New Zealand citizens, bodies established under New Zealand law, or ships with a majority New Zealand ownership are now eligible to carry out maritime transport activities. A registered ship is not limited as to its activities in New Zealand, and is entitled to engage in cabotage, transport, cruises, etc. There is no impediment to foreign investment in maritime transport, provided the investor operates through an enterprise established under New Zealand law.

f) Telecommunications

Foreign ownership restrictions only apply to New Zealand's telecommunications company, the Telecom Corporation of New Zealand ("Telecom"), which it privatised in September 1990. The initial sale of 100 per cent of Telecom was made to an American consortium of private companies, with a requirement to on-sell shares over a three year period. The ultimate ownership was to include public holdings of 40 per cent, as well as a limited holding by the U.S. purchasers and other companies.

The deregulation of telecommunications in New Zealand and the opening of this sector to foreign participation were based on the desire to enhance welfare by improving resource efficiency. Telecom had been undercapitalised, and the New Zealand authorities saw privatisation as a way to add needed capital, reduce prices, and improve services. In its first year of privatisation, Telecom reduced real prices of a basket of inland toll and local services, and also reduced waiting time for phone installation fro 6-8 weeks to less than 48 hours. Staff was reduced from 25 600 in 1987 to 13 560 in 1992. Connections per operating company employee more than doubled.

No single foreign investor or consortium may hold more than 49.9 per cent of the total voting shares of the Telecom Corporation of New Zealand without the approval of, and on terms other than, those specified by the Crown as holder of the "Kiwi" share. Anyone who wants 10 per cent or more of Telecom's total voting shares must have the approval of the holder of the "Kiwi" share.

g) Mining

There is no legal restriction on foreign ownership in mining, but mining income of a non-resident mineral mining operator is taxed at a flat rate, being the prevailing non-resident company rate. Non-resident mineral mining operators may not offset mineral mining losses against non-mineral income. The rationale behind this rule was not apparent, and this system is currently under a review which should be completed in 1994.

Chapter 3

Conclusion

New Zealand's FDI policies and practices have clearly become more receptive to foreign investment in recent years, and the New Zealand Government is now publicly promoting its country as a place to invest. The caution that used to underlie FDI policy, practice, and posture in New Zealand has largely disappeared. The Government has announced its intention to introduce in 1993 a leaner screening mechanism for foreign investment and to embark on a promotional programme abroad to attract more foreign equity capital into New Zealand.

The New Zealand authorities are encouraged to further increase opportunities for FDI in New Zealand by continuing to apply liberally the screening and approval procedures, and to codify in law the liberal application of such procedures as far as possible. The New Zealand Government might also consider opportunities to further raise the threshold beyond which foreign investment needs approval, or even eliminating approval requirements for investments in the "general" category, especially for established foreign-controlled enterprises. Finally, private practices, rules, and procedures that effectively deter foreign investment should be subject to scrutiny and, if possible, eliminated.

Foreign direct investment to and from New Zealand is expected to concentrate more and more in East Asia, as the region is vast, has tremendous growth potential, and is enjoying the highest growth rates in the world. The New Zealand authorities are hoping to have considerable investment from Korea, Taiwan, Hong Kong, and Singapore by the mid-90s. Indeed, the government expects FDI into New Zealand from many countries, including Japan, Australia, and other OECD countries, to continue to grow, particularly in sectors that are under-capitalised and offer growth potential, as in forestry and tourism.

Annex I

New Zealand's current position under the Code of Liberalisation of Capital Movements and the National Treatment Instrument

Introduction

As a signatory to the OECD Code of Liberalisation of Capital Movements (the Code) and the National Treatment Instrument (NTI), New Zealand has undertaken a number of obligations in the foreign direct investment field. This annex highlights the main provisions of these instruments as well as New Zealand's position under them.

The OECD commitments

The Code and the NTI are the two main instruments for co-operation among OECD member countries in the field of foreign direct investment.

The Code, which has the legal status of OECD Council Decisions and is binding on all Member countries, covers the main aspects of the right of establishment for non-resident enterprises and requires OECD members to progressively liberalise their investment regimes on a non-discriminatory basis and treat resident and non-resident investors alike.

The NTI is a "policy commitment" by Member countries to accord to established foreign-controlled enterprises treatment no less favourable than that accorded to domestic enterprises in like situations. While the NTI is a non-binding agreement among OECD Member countries, all measures constituting exceptions to this principle and any other measures which have a bearing on it must be reported to the OECD.

Member countries need not, however, liberalise all their restrictions upon adherence to the above instruments. Rather, the goal of full liberalisation is to be achieved progressively over time. Accordingly, members unable to fully liberalise are permitted to maintain "reservations" to the Code of Capital Movements and "exceptions" to the NTI for outstanding foreign investment restrictions. These limitations to the liberalisation obligations may be lodged at the time a member adheres to the Codes, whenever specific obligations begin to apply to a member, or whenever new obligations are added to the instruments.

The investment obligations of the Code and the NTI are, in fact, complementary, both dealing with the laws, policies and practices of Member countries in the field of direct investment. However, the Code addresses the subject from the point of view of non-resident investors in an OECD host country, while the NTI is concerned with the rights of established foreign-controlled enterprises. Limitations on non-resident (as opposed to resident) investors affecting the enterprises' operations and other requirements set at the time of entry or establishment are covered by the Code. The investment operations of foreign-controlled enterprises after entry, including new investment, is covered by the National Treatment Instrument.

Measures pertaining to **subsidiaries** fall under the purview of the Code or the NTI, depending on whether they set conditions on entry/establishment or concern the activities of foreign-controlled enterprises already established. As to **branches,** the *1991 Review of the OECD Declaration and Decisions on international investment and multinational enterprises* introduced a distinction between "direct" branches of non-resident enterprises and "indirect" branches, that is branches of already established foreign-controlled enterprises. The latter are subject to all the five categories of measures covered by the NTI (investment by established enterprises, government procurement, official aids and subsidies, access to local financing and tax obligations). The investment activities of "direct" branches of non-resident enterprises, which concerns the category of measures covered by the NTI, fall however, exclusively under the purview of the Code.

The Committee on Capital Movements and Invisible Transactions and the Committee on International Investment and Multinational Enterprises together conduct country examinations of Member country measures covered by these OECD commitments. These examinations involve a face to face discussion between representatives of the two Committees and experts from the country being examined. The discussion is based on submission by the Member concerned and a document prepared by the Secretariat. The objective is to clarify the nature and purpose of remaining restrictions and to identify possible areas for further liberalisation. The examinations usually conclude with modifications to the Member country's position, and recommendations by the OECD Council to the Member's authorities concerning the future direction of the country's foreign direct investment policies.

New Zealand's position under the Code and the National Treatment Instrument

Since New Zealand joined the OECD in 1973, its policies on foreign direct investment have undergone substantial liberalisation, moving from a relatively restrictive regime to a more open and receptive one. This has been reflected in its exceptions and reservations under the Code and NTI, which at one time covered a rather large portion of incoming investment, but today have been narrowed substantially to reflect new liberalisation measures and resulting from successive OECD examinations.

These adjustments have been particularly significant since 1987, following improvements in New Zealand's economic performance that resulted, in part, from the economic reform programme launched in 1984. In broad terms these changes limited the range and threshold of activities for which non-resident investors would need approval from the New Zealand authorities, and relaxed certain sectoral restrictions.

The OECD examination of New Zealand's FDI policy took place after substantial liberalisation measures had already been enacted and reflected in New Zealand's position under the Code and NTI. The Government's new policy, announced in December 1991 and further extending liberalisation, had not yet been made law at the time of the examination, but it is expected to come into force in 1993. New Zealand's position under the Code and NTI will have to be adjusted accordingly at that time.

The following lists show New Zealand's current reservations and exceptions. These mainly concern acquisition of businesses in New Zealand beyond certain thresholds, and fishing and land, and air and maritime transport.

a) New Zealand's rcservation on inward direct investment under the Capital Movements Code

"List A, I/A — Direct investment:

– In the country concerned by non-residents.

Remark: The reservation applies only to:

i) Acquisition of 25 per cent or more of any class of shares or voting power in a New Zealand company where the consideration for the transfer, or the value of the assets, exceeds NZ$ 10 million, unless an authorisation is granted;

ii) Commencement of business operations, or acquisition of an existing business, in New Zealand, where the total expenditure to be incurred in setting up or acquiring that business exceeds NZ$ 10 million, unless an authorisation is granted;

iii) Acquisition, regardless of dollar value, of 25 per cent or more of any class of shares or voting power in a New Zealand company engaged in:
- commercial fishing and
- rural land;

iv) Any acquisition, regardless of NZ$ value, of assets used, or proposed to be used, in a business engaged in any of the activities listed in *iii)*;

v) The registration of vessels to engage in maritime transport activities, except through an enterprise incorporated in New Zealand."

b) List of measures reported as exceptions to National Treatment

A. Exceptions at national level

I. Investment by established foreign-controlled enterprises

Trans-sectoral

A foreign-controlled enterprise already established in New Zealand requires authorisation from the Overseas Investment Commission: 1) to establish a new business where the total expenditure to be incurred exceeds NZ$ 10 million; 2) for acquisition or control of 25 per cent or more of any class of shares or voting power in a New Zealand company where either the total consideration payable or the total assets of the business being acquired exceeds NZ$ 10 million; 3) for all acquisition of assets and of share participation exceeding 25 per cent, regardless of their value, in specified sensitive sectors (currently commercial fishing, and rural land).

Rural land

Specific provisions pertaining to the acquisition of rural land: foreigners wishing to purchase rural land must demonstrate that the acquisition will give rise to significant benefits to New Zealand. There are no restrictions as to a specific maximum level of allowable foreign ownership.

Fishing

Purchase of fishing quota is restricted to enterprises when 75 per cent or more of the voting rights are held by New Zealand residents.

Air transport

Air New Zealand privatisation includes a 35 per cent foreign ownership limit. The sale of Air New Zealand entailed the establishment of three classes of shares: ''A'' shares available to New Zealand nationals only; ''B'' shares limited to 35 per cent of total equity and available to overseas persons; and the ''Kiwi'' shares held by the New Zealand government. The company's articles of association cannot be amended without the consent of the holders of the ''Kiwi'' share.

Air transport

Substantial ownership and effective control of international airlines operating scheduled services to/from New Zealand to be vested in the designating country under the respective bilateral agreements or nationals of that country.

Telecommunications

No single foreign investor or consortium may hold more than 49.9 per cent of the total voting shares without the approval of, and other than on terms specified by, the Crown as holder of the "Kiwi" share.

II. Official aids and subsidies

Audio-Visual

Payment of subsidies for production/distribution/exhibition and broadcasting of audio-visual works are limited to New Zealand persons and companies.

III. Tax obligations

Trans-sectoral

Branches of foreign companies operating in New Zealand subject to: 1) A higher rate of income tax; 2) Non-resident withholding tax imposed on certain classes of payments to non-residents; 3) assessment of taxable income from films, insurance and shipping.

Mining

Mining income of a non-resident mineral mining operator is taxed at a flat rate being the prevailing non-resident company rate. Non-resident mineral mining operators may not offset mineral mining losses against non-mining income.

IV. Government purchasing

None.

V. Access to local finance

None.

B. Exceptions by territorial subdivisions

None.

c) *List of measures reported for transparency purposes*

A. Transparency measures at the level of national government

None.

B. Measures reported for transparency at the level of territorial subdivisions

None.

Activities covered by public, private, mixed monopolies or concessions

I. At the level of national government

a) Public monopolies

- Postal services (a time-phased liberalisation is, however, in place);
- Electricity distribution (under review and the limitation is widely expected to be removed in 1992);
- Railways.

b) Private or mixed (Public/Private) monopolies

None.

c) Concessions

None.

II. At the level of territorial subdivisions

None.

Annex 2

Methodology for foreign direct investment statistics in New Zealand

Introduction

The information in this annex has been provided by the New Zealand Department of Statistics to help explain how foreign direct investment is recorded in New Zealand, and why caution should be exercised when comparing FDI data recorded by the Overseas Investment Commission and that contained in the Balance of Payments.

Summary

The percentage of total foreign direct investment reviewed by the Overseas Investment Commission (OIC) cannot be determined from the current data available.

Direct Investment in New Zealand is recorded in the Balance of Payments in the form of "Equity Capital", "Retained Earnings", "Other Long Term Capital" and "Other Short Term Capital".

The OIC would capture Equity Capital, Long Term & Short Term Capital for amounts over NZ$ 10 million. However it is possible for NZ$ 10 million investments to by-pass the OIC. Retained earnings are excluded from the OIC records.

Caution needs to be exercised when comparing data recorded by the OIC and data contained in the Balance of Payments (BOP). The reasons being:

- The OIC data is for approvals only. There is no information on the actual take up of approvals.
- The OIC data does not break down into the same components as the BOP statistics.
- The OIC uses the year ending December for its data, whereas the BOP uses the year ending March.
- The OIC data (NZ$ values) is unavailable prior to year ending December 1991.

Background

The definition of Direct Foreign Investment employed by the Overseas Investment Commission is similar to that used by the Department of Statistics.

The Commission defines Direct Foreign Investment as follows: "investment by non-residents in New Zealand businesses, where the level of non-resident ownership is sufficient or likely to give the investor an effective element of control over the management and activities of the business."

The criteria adopted by the Commission to determine an "effective element of control" is that 25 per cent or more of the voting share capital is controlled by foreign investors. Further, a company which is 25 per cent or more owned by an overseas company is itself treated as an overseas company.

The Department of Statistics includes **all** New Zealand enterprises where foreign ownership is 25 per cent or more in the Balance of Payments Statistics. In contrast the OIC has an approval threshold of NZ$ 10 million except for "specified businesses" which are not subject to a threshold.

OIC Criteria

OIC approval is required for foreign direct investment if any of the following apply:

1. 25 per cent or more of the shares or voting power is involved and the consideration for the shares or voting power exceeds NZ$ 10 million; or the value of the assets exceeds NZ$ 10 million.
2. The total expenditure involved in setting up a business in New Zealand is over NZ$ 10 million.
3. Shares are issued or allotted to a non-resident, with the result that the non-resident holds 25 per cent or more of the shares of the New Zealand company and the total consideration involved exceeds NZ$ 10 million.
4. The total amount involved in the acquisition of a New Zealand business exceeds NZ$10 million.

There are special criteria which apply to "specified businesses":

1. Any investment resulting in 25 per cent or more of the shares or voting power.
2. Any acquisition of assets used or proposed to be used in carrying on a "specified business".

Currently "specified businesses" comprises rural land and commercial fishing.

Under the above criteria direct lending with new equity is included in OIC approvals and direct lending without new equity is included in OIC approvals. However no approvals are required in respect of retained earnings.

Comparisons between the balance of payments and OIC

Direct Investment in New Zealand is recorded in the Balance of Payments in the form of Equity Capital, Unremitted Earnings, Other Long Term Capital and Short Term Capital. The OIC would capture Equity Capital, Long Term and Short Term Capital for amounts over NZ$ 10 million. All retained earnings are excluded from the OIC records.

However it is possible for investments exceeding NZ$ 10 million to be excluded from OIC approval.

Example:

An overseas property developer who sets up/acquires a property company in New Zealand and the acquisition costs are less than NZ$ 10 million and

1. acquires a property as a separate transactions so that the separate values exceed NZ$ 10 million does not require approval; however
2. if the second purchase was included in the original set up/acquisition arrangement as one transaction then approval is required.

Annex 3

Enterprises by degree of overseas equity

(February 1991 and February 1992)

Table 1. Enterprises with 0 per cent overseas equity[1]

February 1991

NZSIC* Major Division		0-5	6-9	10-49	50-99	100 +	Total
Agricultural Services Hunting, Forestry and Fishing	Enterprises	5 297	397	325	23	8	6 050
	Persons Engaged	9 739	2 837	6 065	1 470	1 647	21 758
Mining and Quarrying	Enterprises	338	45	36	4	3	426
	Persons Engaged	660	323	588	234	1 390	3 195
Manufacturing	Enterprises	11 686	2 003	2 484	234	141	16 548
	Persons Engaged	25 526	14 413	48 327	16 018	48 043	152 327
Electricity, Gas and Water	Enterprises	17	1	13	8	33	72
	Persons Engaged	13	8	436	554	11 437	12 448
Construction	Enterprises	23 584	1 062	865	45	23	25 579
	Persons Engaged	41 873	7 502	15 284	3 069	6 437	74 165
Wholesale and Retail Trade, Restaurants and Hotels	Enterprises	36 864	4 464	3 316	228	119	44 991
	Persons Engaged	83 533	31 824	57 995	15 262	26 229	214 843
Transport, Storage and Communication	Enterprises	9 291	477	534	46	48	10 396
	Persons Engaged	15 694	3 432	9 932	3 253	29 691	62 002
Business and Financial Services	Enterprises	21 240	1 238	1 297	90	82	23 947
	Persons Engaged	30 458	8 855	23 662	6 160	35 186	104 281
Community, Social and Personal Services	Enterprises	19 399	2 134	2 645	297	265	24 740
	Persons Engaged	41 221	15 214	50 767	20 757	186 978	314 937
Total	Enterprises	127 716	11 821	11 515	975	722	152 749
	Persons Engaged	248 717	84 408	213 016	66 777	347 038	959 956

1. In these tables, subsidiaries wholly-owned by other enterprises (including those overseas-owned) are treated as having the same percentage of overseas equity as their owning enterprises.

* New Zealand Standard Industrial Classification.

Source: Business Activity Statistics, OIC.

Table 2. Enterprises with 1 per cent or more but less than 25 per cent overseas equity[1]

February 1991

NZSIC Major Division		0-5	6-9	10-49	50-99	100 +	Total
Agricultural Services Hunting, Forestry and Fishing	Enterprises	46	1	6	1	5	59
	Persons Engaged	21	8	113	82	1 468	1 692
Mining and Quarrying	Enterprises	39	–	4	–	3	46
	Persons Engaged	13	–	85	–	542	640
Manufacturing	Enterprises	31	7	51	30	66	185
	Persons Engaged	37	53	1 304	2 171	23 993	27 558
Electricity, Gas and Water	Enterprises	–	–	1	2	3	6
	Persons Engaged	–	–	10	150	645	805
Construction	Enterprises	10	2	3	2	6	23
	Persons Engaged	13	16	73	126	2 650	2 878
Wholesale and Retail Trade, Restaurants and Hotels	Enterprises	69	17	71	21	29	207
	Persons Engaged	149	121	1 658	1 513	12 003	15 444
Transport, Storage and Communication	Enterprises	11	2	8	2	–	23
	Persons Engaged	22	17	138	117	–	294
Business and Financial Services	Enterprises	284	6	28	5	9	332
	Persons Engaged	92	45	612	292	3 605	4 646
Community, Social and Personal Services	Enterprises	16	2	9	–	1	28
	Persons Engaged	20	15	200	–	549	784
Total	Enterprises	506	37	181	63	122	909
	Persons Engaged	367	275	4 193	4 451	45 455	54 741

1. In these tables, subsidiaries wholly-owned by other enterprises (including those overseas-owned) are treated as having the same percentage of overseas equity as their owning enterprises.

Source: Business Activity Statistics, OIC.

Table 3. **Enterprises with 25 per cent or more but less than 50 per cent overseas equity**[1]

February 1991

NZSIC Major Division		0-5	6-9	10-49	50-99	100 +	Total
Agricultural Services, Hunting, Forestry and Fishing	Enterprises	1	–	1	–	–	2
	Persons Engaged	1	–	28	–	–	29
Mining and Quarrying	Enterprises	9	–	1	–	1	11
	Persons Engaged	5	–	11	–	146	162
Manufacturing	Enterprises	18	8	29	6	12	73
	Persons Engaged	46	56	645	456	5 041	6 244
Construction	Enterprises	9	–	–	–	–	9
	Persons Engaged	10	–	–	–	–	10
Wholesale and Retail Trade, Restaurants and Hotels	Enterprises	50	9	13	2	6	80
	Persons Engaged	105	72	227	127	1 210	1 741
Transport, Storage and Communication	Enterprises	13	3	6	2	7	31
	Persons Engaged	26	24	150	142	9 006	9 348
Business and Financial Services	Enterprises	77	7	14	2	2	102
	Persons Engaged	47	50	281	109	693	1 180
Community, Social and Personal Services	Enterprises	5	–	4	–	–	9
	Persons Engaged	8	–	85	–	–	93
Total	Enterprises	182	27	68	12	28	317
	Persons Engaged	248	202	1 427	834	16 096	18 807

1. In these tables, the subsidiaries wholly-owned by other enterprises (including those overseas-owned) are treated as having the same percentage of overseas equity as their owning enterprises.

Source: Business Activity Statistics, OIC.

Table 4. **Enterprises with 50 per cent and over overseas equity**[1]

February 1991

NZSIC Major Division		0-5	6-9	10-49	50-99	100 +	Total
Agricultural Services, Hunting, Forestry and Fishing	Enterprises	18	2	3	1	–	24
	Persons Engaged	27	18	60	58	–	163
Mining and Quarrying	Enterprises	23	2	14	2	–	41
	Persons Engaged	25	15	265	134	–	439
Manufacturing	Enterprises	92	43	176	104	11	530
	Persons Engaged	187	310	4 432	7 193	38 926	51 048
Construction	Enterprises	28	3	9	8	5	53
	Persons Engaged	43	19	196	620	1 343	2 221
Wholesale and Retail Trade, Restaurants and Hotels	Enterprises	447	98	256	57	62	920
	Persons Engaged	975	730	5 427	3 928	31 779	42 839
Transport, Storage and Communication	Enterprises	65	20	48	21	24	178
	Persons Engaged	148	144	1 015	1 552	18 633	21 462
Business and Financial Services	Enterprises	652	54	131	32	42	911
	Persons Engaged	473	391	2 934	2 167	25 690	31 655
Community, Social and Personal Services	Enterprises	53	9	17	5	7	91
	Persons Engaged	84	66	351	380	3 657	4 538
Total	Enterprises	1 378	231	654	230	255	2 748
	Persons Engaged	1 962	1 693	14 680	16 002	120 028	154 365

1. In these tables, the subsidiaries wholly-owned by other enterprises (including those overseas-owned) are treated as having the same percentage of overseas equity as their owning enterprises.

Source: Business Activity Statistics, OIC.

Table 5. **Enterprises with 0 per cent overseas equity**

February 1992

NZSIC Major Division		0-5	6-9	10-49	50-99	100 +	Total
Agricultural Services Hunting, Forestry and Fishing	Enterprises	7 119	418	362	23	8	7 930
	Persons Engaged	10 848	3 012	6 675	1 524	1 119	23 178
Electricity, Gas and Water	Enterprises	335	36	45	5	2	423
	Persons Engaged	631	248	724	315	1 156	3 074
Building and Construction	Enterprises	12 307	1 974	2 398	219	134	17 032
	Persons Engaged	26 671	14 162	45 667	15 189	45 842	147 531
Electricity, Gas and Water	Enterprises	22	0	14	11	32	79
	Persons Engaged	16	0	459	899	10 393	11 767
Building and Construction	Enterprises	24 228	959	769	41	16	26 013
	Persons Engaged	41 913	6 729	13 334	2 772	4 336	69 084
Wholesale and Retail Trade Restaurants and Hotels	Enterprises	38 841	4 443	3 217	203	107	46 811
	Persons Engaged	89 240	31 630	55 994	13 656	24 714	215 234
Transport, Storage and Communication	Enterprises	10 237	484	521	54	40	11 336
	Persons Engaged	17 288	3 496	9 569	3 690	23 574	57 717
Business, Insurance and Business Services	Enterprises	24 900	1 296	1 341	79	75	27 691
	Persons Engaged	33 696	9 284	24 377	5 255	30 564	103 176
Community, Social and Personal Services	Enterprises	21 650	2 080	2,692	293	260	26 975
	Persons Engaged	45 034	14 928	51 446	20 203	181 443	313 054
Total	Enterprises	139 639	11 690	11 359	928	674	164 290
	Persons Engaged	265 337	83 489	208 345	63 503	323 141	943 815

Table 6. **Enterprises with 1 per cent or more but less than 25 per cent overseas equity**

February 1992

NZSIC Major Division		0-5	6-9	10-49	50-99	100 +	Total
Agricultural Services Hunting, Forestry and Fishing	Enterprises	21	2	5	2	1	31
	Persons Engaged	19	16	71	158	274	538
Electricity, Gas and Water	Enterprises	47	2	1	1	4	55
	Persons Engaged	9	17	24	58	642	760
Building and Construction	Enterprises	27	6	45	21	51	150
	Persons Engaged	48	48	1 306	1 488	16 985	19 875
Electricity, Gas and Water	Enterprises	0	1	0	1	4	6
	Persons Engaged	0	8	0	56	741	805
Building and Construction	Enterprises	6	1	4	1	5	17
	Persons Engaged	8	7	92	80	1 768	1 955
Wholesale and Retail Trade Restaurants and Hotels	Enterprises	76	18	60	10	18	182
	Persons Engaged	154	125	1 329	697	5 550	7 855
Transport, Storage and Communication	Enterprises	18	4	10	3	2	37
	Persons Engaged	19	31	188	239	302	779
Business, Insurance and Business Services	Enterprises	257	9	22	1	5	294
	Persons Engaged	90	64	440	54	1 836	2 484
Community, Social and Personal Services	Enterprises	11	2	6	0	0	19
	Persons Engaged	6	13	102	0	0	121
Total	Enterprises	453	45	153	40	90	791
	Persons Engaged	353	329	3 552	2 840	28 098	35 172

Table 7. Enterprises with 25 per cent or more but less than 50 per cent overseas equity

February 1992

NZSIC Major Division		0-5	6-9	10-49	50-99	100 +	Total
Agricultural Services Hunting, Forestry and Fishing	Enterprises	50	0	1	0	2	53
	Persons Engaged	1	0	28	0	384	427
Electricity, Gas and Water	Enterprises	4	1	0	0	0	5
	Persons Engaged	3	6	0	0	0	9
Building and Construction	Enterprises	23	14	30	15	23	105
	Persons Engaged	63	109	706	1 142	9 246	11 266
Building and Construction	Enterprises	5	2	0	0	0	7
	Persons Engaged	9	14	0	0	0	23
Wholesale and Retail Trade Restaurants and Hotels	Enterprises	54	12	25	5	21	118
	Persons Engaged	127	80	387	398	10 064	11 056
Transport, Storage and Communication	Enterprises	8	5	8	9	7	37
	Persons Engaged	12	36	217	615	8 620	9 500
Business, Insurance and Business Services	Enterprises	142	6	18	1	5	172
	Persons Engaged	68	43	460	76	1 746	2 393
Community, Social and Personal Services	Enterprises	12	2	2	0	0	16
	Persons Engaged	30	12	61	0	0	103
Total	Enterprises	298	42	84	31	58	513
	Persons Engaged	327	300	1 859	2 231	30 060	34 777

Table 8. **Enterprises with 50 per cent and over overseas equity**

February 1992

NZSIC Major Division		0-5	6-9	10-49	50-99	100 +	Total
Agricultural Services Hunting, Forestry and Fishing	Enterprises	20	3	5	0	0	28
	Persons Engaged	30	25	145	0	0	200
Electricity, Gas and Water	Enterprises	19	4	8	1	1	33
	Persons Engaged	9	30	165	50	173	427
Building and Construction	Enterprises	94	40	175	97	110	516
	Persons Engaged	175	297	4 647	6 983	36 580	48 682
Building and Construction	Enterprises	32	2	11	7	10	62
	Persons Engaged	64	13	223	498	2 098	2 896
Wholesale and Retail Trade Restaurants and Hotels	Enterprises	542	100	262	61	68	1 033
	Persons Engaged	1 183	723	5 753	4 329	27 602	39 590
Transport, Storage and Communication	Enterprises	82	19	48	18	24	191
	Persons Engaged	161	135	984	1 215	15 764	18 259
Business, Insurance and Business Services	Enterprises	700	58	125	28	44	955
	Persons Engaged	467	411	3 010	1 809	27 833	33 530
Community, Social and Personal Services	Enterprises	69	6	18	7	10	110
	Persons Engaged	129	45	281	457	3 748	4 660
Total	Enterprises	1 558	232	652	219	267	2 928
	Persons Engaged	2 218	1 579	15 208	15 341	113 798	148 244

Annex 4

Overseas take-overs in New Zealand

Introduction

The take-over statistics cover all proposals for the acquisition by an overseas person of 25 per cent or more of the voting shares of an existing New Zealand company up until 24 August 1989, when the second amendment to the Overseas Investment Regulations

Table 1. **Overseas take-overs in New Zealand, 1987-1991**
Summary of applications and decisions
Under the Overseas Investment Regulations 1985

	1987	1988	1989	1990	1991	
						%
Applications						
Registered	849	1 060	862	219	156	
Declined	–	–	1	1	–	
Total	849	1 060	861	218	156	
Final Ownership						
United Kingdom	106	140	96	43	31	20
United States	64	90	93	20	17	11
Australia	470	523	487	78	42	27
Japan	24	35	43	33	25	18
Hong Kong	37	24	19	8	5	3
Singapore	2	18	13	8	5	3
Others*	146	230	110	28	29	20
Total	849	1 060	861	218	156	100
Overseas Ownership						
Up to 49.9%	45	60	21	5	9	5.8
50%	14	23	17	4	4	2.6
Between 50.1 and 74.9%	44	22	37	2	9	5.8
Between 75 and 100%	746	955	786	207	134	85.9
Total	849	1 060	861	218	156	100.0

* See Table 2.
Source: Overseas Investment Commission.

1985 took effect. From 24 August 1989 only proposals which involved either "significant investment" or investment in a "Specified Business" have been covered by these statistics. Table 1 covers the number of applications registered, declined or approved for the period from 1987 to 1991. It also categorises the cases approved by country of origin of the largest shareholder, and by the level of overseas ownership. Table 2 shows overseas take-overs in New Zealand by other countries' largest shareholders in 1991, and Table 3 provides an analysis by the activity undertaken, for the applications made in 1991.

The statistics on commencement of business (refer Annex 5) cover the incorporation of a New Zealand company where 25 per cent or more (in aggregate) of the shares are to be issued to an "overseas person(s)", the registration of a branch of any company incorporated outside New Zealand, any increase in the share capital of a New Zealand company which involves an increase in the proportion of foreign owned equity where the issuer is or will become as a result of the issue an "overseas person", an overseas individual or unincorporated body of persons commencing business and the acquisition of assets of an existing New Zealand entity by an overseas person up until 24 August 1989 when the second amendment to the Overseas Investment Regulations 1985 took effect. The statistics cover the period from 1987 to 1991 and again include the number of applications registered, declined and approved; an analysis of the purpose of the applica-

Table 2. **Overseas take-overs in New Zealand by other countries' largest shareholders**

1 January-31 December 1991

Europe	
France	4
Switzerland	3
Netherlands	2
Germany	4
North America	
Canada	3
East Asia	
China	2
Taiwan	3
South East Asia	
Malaysia	3
Indonesia	4
Oceania	
Pacific Islands	1
Total	29

Source: Overseas Investment Commission.

Table 3. **Overseas take-overs in New Zealand by activity**

1 January-31 December 1991

	Number	Per cent of total	Total amount of Proposed Investment (NZ$ thousand)
Primary			
Dairy Farming	1	0.6	2
Sheep Farming	10	6.4	4 694
Mixed Farming	2	1.3	674
Beef Farming	4	2.6	4 830
Thoroughbred Stud	1	0.6	560
Deer Farming	2	1.3	
Orchard	4	2.6	3 332
Market Gardening	5	3.2	1 137
Vineyard	5	3.2	698
Life-style	2	1.3	1 189
Secondary			
Forestry	1	0.6	3 970
Coal Mining	1	0.6	222
Crude Petrol and Natural Gas	2	1.3	14 106
Metal Ore Mining	10	6.4	42 122
Other Mining	2	1.3	478
Manufacturing	20	12.9	750 400
Tertiary			
Construction-Commercial	3	1.9	30 300
Commercial Property Leasing	6	3.8	64 070
Wholesale and Retail Trade	21	13.5	681 504
Transport Services	5	3.2	190 180
Communication and Telecommunication	2	1.3	14 000
Banks	7	4.5	38 500
Holding Companies	4	2.6	3 014
Financial Institutions			
Services	10	6.4	195 262
Insurance	9	5.8	141 801
Business Services	3	1.9	5 001
Television Broadcasting	5	3.2	n.a.
Accommodation-Hotel/Motel	6	3.8	98 811
Amusement/Entertainment	3	1.9	2 580
Total of activities	156	100.0	2 293 446

n.a.: Not available.

Source: Overseas Investment Commission.

tion (whether registration of a company or branch, an increase of capital, or acquisition of assets); and classifications by the level of overseas ownership, and by country of origin of the major shareholder. It should be noted however that from 24 August 1989 consent is only required for Significant Investment or investment in a "Specified Business". This has meant that for example consents for name protection and Branch Registration are no longer required.

For both the take-overs and the commencement of business statistics, it should be noted that the number of applications declined in relation to the number of approvals may be a poor indication of the impact of the Regulations for two reasons. First, the very existence of the Regulations may deter some potential foreign investors from approaching the Commission for approval, especially prior to the second amendment to the Regulations. Secondly, informal discussions with the Secretariat of the Commission often take place before a formal application is made, and the result may be that no application is in fact submitted or that the proposals are substantially modified so as to ensure that the formal application obtains consent. Consequently, the statistics do not enable any reliable assessment of the amount of foreign investment which has been discouraged or prevented by the existence of the screening process. It should also be noted that since the new amendment came into effect on the 24 August 1989 a large number of take-overs and business commencements no longer require consent.

For these reasons, **the statistics provided here should be interpreted with caution.** They provide primarily a record of the activities of the Overseas Investment Commission. They do not provide quantitative information regarding the level of foreign investment in New Zealand. The only way of obtaining such data would be by survey as the fact that an application is approved by the Commission does not mean that it has been proceeded with or to the full extent proposed, or at all. However, bearing in mind the information content of the data, these tables may be used for qualitative purposes, such as to assess general trends in the types of foreign investment being undertaken in New Zealand.

Annex 5

Overseas companies commencing business and asset acquisitions in New Zealand

Table 1. **Overseas companies commencing business in New Zealand. Summary of applications and decisions 1987–1991**

Under the Overseas Investment Regulations 1985

	1987	1988	1989	1990	1991
Applications					
Registered	891	919	677	201	179
Decline	1	–	–	1	–
Approved Applications	890	919	677	200	179
Purpose of Application					
Incorporation of a company in New Zealand	434	446	238	14	8
Registration of a Branch	101	106	80	5	6
Increase in Share Capital	84	65	91	26	36
Acquisition of Assets	n.a.	n.a.	n.a.	n.a.	112
Activation of a Name Protection Company	n.a.	n.a.	n.a.	n.a.	14
Individuals Carrying on Business	n.a.	n.a.	n.a.	n.a.	1
Unincorporated Body Carrying on Business	n.a.	n.a.	n.a.	n.a.	2
Extension of Activities	n.a.	n.a.	n.a.	n.a.	0
Name Protection	130	111	62	0	0
Other	141	191	206	155	0
Total	890	919	677	200	179
Overseas Ownership					
Up to 24.9%	7	1	9	1	7
Between 25 and 49.9%	44	29	36	4	17
50 percent	52	59	36	12	3
Between 50.1 and 74.9%	43	39	49	8	13
Between 75 and 100%	744	791	547	175	139
Total	890	919	677	200	179
Final Ownership					
United Kingdom	128	97	68	22	16
United States	82	102	69	23	32
Australia	490	483	330	88	32
Japan	28	61	57	24	18
Hong Kong	20	18	20	14	7
Singapore	1	7	8	6	14
Others	141	151	125	23	60
Total	890	919	677	200	179

n.a.: Not available.
Source: Overseas Investment Commission.

Table 2. **Overseas asset acquisitions and business commencements in New Zealand**

1 January-31 December 1991

	Number	Per cent
Application		
Registered	179	
Declined	0	
Approved Applications	179	
Purpose of Application		
Acquisition of Assets	112	62.6
Incorporation of a Company in New Zealand	8	4.5
Increase in Share Capital	36	20.1
Registration of a Branch	6	3.4
Activation of a Name Protection	14	7.8
Individuals Carrying on Business	1	.6
Unincorporated Body Carrying on Business	2	1.1
Extension of Activities	0	0.0
Total	179	100.0
Ownership		
United Kingdom	16	9
United States	32	18
Australia	32	18
Japan	18	10
Hong Kong	7	4
Singapore	14	8
Others*	60	33
Total	179	100
Overseas Ownership		
Between 25 and 49.9 per cent	7	3.9
50 percent	17	9.5
Between 50.1 and 74.9 per cent	3	1.7
Between 75 and 99.9 per cent	13	7.3
100 percent	139	77.7
Total	179	100.0

* See Table 3.

Source: Overseas Investment Commission.

Table 3. **Other overseas companies commencing business in New Zealand by country of origin of the major shareholder**

1 January-31 December 1991

Europe	
France	4
Switzerland	6
Netherlands	9
Scandinavia	1
Germany	2
Central and Eastern Europe	0
Other	1
North America	
Canada	2
South America	2
East Asia	
China	4
Taiwan	2
Korea	1
South East Asia	
Malaysia	2
Indonesia	7
Oceania	
Pacific Islands	4
New Zealand	13
Total	60

Source: Overseas Investment Commission.

Annex 6

Chronology of main events affecting foreign direct investment 1984-1992

1984

November

The Chairman of the Overseas Investment Commission announces that foreign-owned companies operating in New Zealand will generally have unrestricted access to the New Zealand capital market.

December

Abolition of exchange controls.

1985

March

Limits on foreign ownership in New Zealand financial institutions, advertising agencies and fish processing are abolished. Foreign ownership had previously been limited to 70 per cent in financial institutions, 40 per cent in advertising agencies and 49 per cent in land-based fish processing.

July

The Minister of Finance stated that the Government was now willing to consider requests from investors for up to 100 per cent ownership in virtually all areas except rural land and air services.

November

Legislation introduced empowering Reserve Bank to authorise (subject to certain qualitative criteria being met) existing institutions to call themselves "banks" and new institutions to set up as banks. No discrimination to be implemented against entry of overseas banks.

1986

July

Reserve Bank of New Zealand Amendment Bill allows entry by interested parties of sound financial condition and wide expertise in banking for registration as banks.

1987

April

The State-Owned Enterprises Act allows for the establishment of nine new state corporations: the Government Property Services; the Airways Corporation; Forestcorp; Landcorp; New Zealand Post; Post Office Bank; Electricorp; Telecom and Coalcorp.

1988

March

The Government announces that Petrocorp has been sold to Fletcher Challenge. Fletcher Challenge taking a 70 per cent share and 15 per cent of the company's shares being owned by Brierly Investments and 15 per cent by the public.

June

The Government announces that DFC New Zealand has been sold to National Provident and international investment bank Salomon Brothers. National Provident takes an 80 per cent share, and Salomon Brothers 20 per cent.

July

The Government announces that the Government Stores Board will become a State-Owned Enterprise. It will also sell Government Property Services.

The 1988 Budget includes a programme of asset sales amounting to NZ$ 2 billion towards a reduction in foreign debt.

August

Prime Ministers David Lange and Bob Hawke put the seal on a trans-Tasman free market by 1 July 1990, signing protocols breaking down most trade barriers between New Zealand and Australia.

The Minister of Broadcasting, Mr. Richard Prebble, announced that the Broadcasting Corporation would be split up into two state-owned enterprises – Television New Zealand and Radio New Zealand.

1989

November

The following changes are made to the Overseas Investment Regulations:

- Approval by the Overseas Investment Commission is no longer required for the acquisition by non-residents, except in the case of specified businesses, of 25 per cent or more of any class of shares in a New Zealand enterprise where the consideration or value of the assets required is less than NZ$ 10 million;
- The threshold below which acquisitions by non-residents of existing businesses in New Zealand need not, except in the case of certain specified businesses, be approved by the Overseas Investment Commission is raised from NZ$ 2 million to NZ$ 10 million;
- Removal, except in the case of certain specified businesses, the requirement for approval by the Overseas Investment Commission for the commencement by non-residents of businesses in New Zealand where the total expenditure to be incurred is less than NZ$ 10 million;
- The maximum shareholding by a non-resident in a broadcasting media businesses is increased from 5 to 15 per cent; in the case of any radio broadcasting businesses, non-residents may hold up to a 25 per cent shareholding with the approval of the Minister of Broadcasting;
- Removal of sectoral restrictions applying to large-scale investments in natural resource industries.

Air New Zealand is privatised. Foreign participation is limited to 35 per cent.

1990

May

Sale of the State Insurance Office to Norwich Insurance.

June

Sale of Telecom to a consortium comprising two American companies, American Information Technologies Corporation and Bell Atlantic Corporation, and two New Zealand companies, Ray Richwhite and Freightways.

Sale of the Tourist Hotel Corporation of New Zealand to Southern Pacific Hotel Corporation Limited.

1991

December

The government announces a new regulatory regime for foreign direct investment to streamline approval and to increase promotion of New Zealand as an investment destination.

Under the new policy, investment proposals of a "general character" involving more than NZ$ 10 million would be approved if the prospective investor has business experience and acumen, places its own capital at risk and has no criminal record. Investment proposals in sensitive areas (any land exceeding five hectares in area and islands or land in adjoining the coasts or lakes in excess of one hectare) will be approved if they bring significant net economic benefit to New Zealand.

1992

May

As part of its privatisation programme, the Government announces that studies will be carried out on four State-owned enterprises: Works and Services Development Corporation Ltd., Government Computer Services Ltd., and New Zealand Rail Ltd. A decision whether or not to privatise these businesses will be made in light of the outcome of the studies.

July

The National Australia Bank acquired 100 per cent shareholding in the Bank of New Zealand.

Annex 7

References

- A Guide to Making an Application Under the Overseas Investment Regulations, 1985.
- The Secretary, Overseas Investment Commission, PO Box 2489, Wellington, New Zealand.
- The New Zealand Trade Development Board TRADENZ Investor Services. These include data bases on investment opportunities available at New Zealand Diplomatic and Trade Posts abroad or TRADENZ Head Office in Wellington, and a Help Desk''.

Annex 8

Statistics on direct investment flows in OECD countries

Table 1. Foreign direct investment in OECD countries: inflows 1971-1991

$ million

	Cumulative Flows		Flows of Foreign Direct Investment										
	1971-1980	1981-1990	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
Australia	11 295	38 902	2 349	2 286	2 994	428	2 099	3 457	3 852	7 599	7 289	6 549	4 400
Austria	1 455	3 301	318	206	220	117	168	182	403	444	590	653	265
Belgium-Luxembourg	9 215	28 182	1 352	1 390	1 271	360	957	631	2 338	4 990	6 731	8 162	9 377
Canada	5 534	10 949	–3 670	–831	243	1 313	–2 050	990	3 469	3 614	2 027	5 844	5 100
Denmark	1 561	3 461	100	135	64	9	109	161	88	504	1 084	1 207	1 459
Finland	376	2 841	99	–4	84	138	110	340	265	530	488	791	32
France[1]	16 908	43 385	2 426	1 563	1 631	2 198	2 210	2 749	4 621	7 204	9 552	9 231	11 109
Germany[1]	13 957	17 678	340	819	1 775	553	587	1 190	1 901	1 203	6 997	2 313	2 200
Greece	..	6 145	520	436	439	485	447	471	683	907	752	1 005	1 165
Ireland	1 659	1 212	204	241	168	119	159	–43	89	91	85	99	..
Italy[1]	5 698	24 993	1 146	636	1 190	1 290	1 003	–15	4 059	6 839	2 529	6 316	2 542
Japan[1]	1 424	3 281	189	439	416	–10	642	226	1 165	–485	–1 054	1 753	1 400
Netherlands	10 822	27 715	1 520	965	757	587	641	1 861	2 307	4 071	6 772	8 234	3 700
New Zealand	2 598	3 945	177	275	243	119	227	390	238	156	434	1 686	1 724
Norway[1]	3 074	4 708	686	424	336	–210	–412	1 023	184	285	1 511	881	–352
Portugal[2]	535	6 440	177	145	144	196	273	242	465	925	1 740	2 133	2 022
Spain	7 060	46 000	1 714	1 801	1 647	1 773	1 945	3 442	4 548	7 016	8 433	13 681	11 100
Sweden	897	7 972	182	357	223	289	398	939	585	1 499	1 523	1 977	6 286
Switzerland	..	12 405	..	..	286	520	1 050	1 778	2 044	42	2 254	4 431	1 996
Turkey[3]	228	2 356	95	55	46	113	99	125	106	354	663	700	783
United Kingdom	40 503	122 255	5 891	5 286	5 132	–241	4 960	7 311	13 863	18 206	28 043	33 804	21 100
United States	56 276	365 995	25 195	13 810	11 518	25 567	20 490	36 145	59 581	58 571	69 010	46 108	12 619
TOTAL	188 249	789 096	41 112	30 659	31 081	35 874	36 508	64 223	107 165	124 734	158 010	159 730	102 370

1. Reinvested earnings are not included in national statistics.
2. Figures for Portugal are only available from 1975 onward.
3. Included cumulated direct inflows since 1954.

Source: OECD/DAF – Based on official national statistics from the balance of payments converted in $ at daily average exchange rate.

Table 2. **Foreign direct investment in OECD countries: inflows 1981-1991**

As a percentage of GDP

	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
Australia	1.3	1.3	1.7	0.2	1.3	2.0	1.8	2.9	2.5	2.2	1.5
Austria	0.5	0.3	0.3	0.2	0.3	0.2	0.3	0.4	0.5	0.4	0.2
Belgium-Luxembourg	1.4	1.6	1.5	0.5	1.2	0.6	0.5	3.2	4.3	4.2	4.8
Canada	–1.2	–0.3	0.1	0.4	–0.6	0.3	0.8	0.7	0.4	1.0	0.9
Denmark	0.2	0.2	0.1	0.0	0.2	0.2	0.1	0.5	1.0	0.9	1.1
Finland	0.2	0.1	0.2	0.3	0.2	0.5	0.3	0.5	0.4	0.6	0.0
France*	0.4	0.3	0.3	0.4	0.4	0.4	0.5	0.7	1.0	0.8	0.9
Germany*	0.1	0.1	0.3	0.1	0.1	0.1	0.2	0.1	0.6	0.2	0.1
Greece	1.4	1.1	1.3	1.4	1.3	1.2	1.5	1.7	1.4	1.5	1.7
Ireland	1.1	1.3	0.9	0.7	0.8	–0.2	0.3	0.3	0.2	0.2	0.0
Italy*	0.3	0.2	0.3	0.3	0.2	–0.0	0.5	0.8	0.3	0.6	0.2
Japan*	0.0	0.0	0.0	–0.0	0.0	0.0	0.0	–0.0	–0.0	0.1	0.0
Netherlands	1.1	0.7	0.6	0.5	0.5	1.1	1.1	1.8	3.0	2.9	1.3
New Zealand	0.7	1.2	1.0	0.5	1.0	1.4	0.7	0.4	1.0	3.8	4.0
Norway*	1.2	0.8	0.6	–0.4	–0.7	1.5	0.2	0.3	1.7	0.8	–0.3
Portugal	0.7	0.6	0.7	1.0	1.3	0.8	1.3	2.2	3.8	3.6	2.9
Spain	0.9	1.0	1.1	1.1	1.2	1.5	1.6	2.0	2.2	2.8	2.1
Sweden	0.2	0.4	0.2	0.3	0.4	0.7	0.4	0.8	0.8	0.9	2.7
Switzerland	0.0	0.0	0.3	0.6	1.1	1.3	1.2	0.0	1.3	2.0	0.9
Turkey	0.2	0.1	0.1	0.2	0.2	0.2	0.2	0.5	0.8	0.6	0.7
United Kingdom	1.2	1.1	1.1	–0.1	1.1	1.3	2.0	2.2	3.4	3.5	2.1
United States	0.8	0.4	0.3	0.7	0.5	0.9	1.3	1.2	1.3	0.9	0.2

* Reinvested earnings are not included in national statistics.
Source: OECD/DAF – Based on official national statistics from the balance of payments.

Table 3. **Direct investment abroad from OECD countries: outflows 1971-1991**

$ million

	Cumulative Flows		Flows of direct investment abroad										
	1971-1980	1981-1990	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
Australia	2 510	22 610	734	693	518	1 403	1 887	3 419	4 981	4 860	2 831	1 284	100
Austria	578	4 071	206	150	186	67	49	296	347	287	859	1 624	1 295
Belgium-Luxembourg	3 213	21 454	30	-77	358	282	231	1 627	2 680	3 609	6 114	6 600	6 165
Canada	11 335	36 636	5 756	709	2 758	2 277	2 855	4 066	7 069	5 278	4 603	1 265	3 200
Denmark	1 063	6 292	141	77	159	93	303	646	618	719	2 027	1 509	2 050
Finland	605	12 169	129	85	143	493	352	810	1 141	2 608	3 108	3 300	2 100
France[1]	13 940	85 810	4 615	3 063	1 841	2 126	2 226	5 230	8 704	12 756	18 137	27 112	20 508
Germany[1]	23 130	85 709	3 862	2 481	3 170	4 389	4 804	9 616	9 105	11 419	14 536	22 327	20 700
Italy[1]	3 597	27 859	1 404	1 025	2 126	1995	1 818	2 661	2 326	5 450	2 003	7 051	6 675
Japan[1]	18 052	185 826	4 894	4 540	3 612	5 965	6 452	14 480	19 519	34 210	44 130	48 024	31 200
Netherlands	27 829	52 182	3 629	2 610	2 098	2 530	2 829	3 147	7 087	4 056	11 475	12 721	9 300
New Zealand	375	4 563	103	87	404	31	174	87	562	615	135	2 365	528
Norway[1]	1 079	8 975	185	317	360	612	1 228	1 605	890	968	1 352	1 458	1 842
Portugal[2]	38	372	20	10	18	10	22	0	-11	81	85	137	464
Spain	1 274	8 196	272	505	245	249	252	377	754	1 227	1 470	2 845	3 500
Sweden	4 597	45 257	854	1 237	1 461	1 506	1 783	3 707	4 498	7 229	9 684	13 298	7 956
Switzerland	..	31 862	..	..	492	1 139	4 572	1 461	1 274	8 696	7 852	6 376	4 502
Turkey[3]	..	147	..	..	..	..	..	..	27	8	56	56	182
United Kingdom	55 112	188 492	12 065	7 145	8 211	8 027	10 851	17 647	31 419	37 140	35 201	20 786	17 300
United States	134 354	173 917	9 624	967	6 695	11 587	13 161	18 679	31 046	17 880	30 167	34 111	28 197
TOTAL	302 306	1 008 057	48 581	25 694	35 276	44 824	56 152	89 701	134 771	159 763	195 999	217 296	168 482

1. Reinvested earnings are not included in national statistics.
2. Figures for Portugal are only available from 1975 onward.
3. Includes cumulated direct inflows since 1954.

Source: OECD/DAF – Based on official national statistics from the balance of payments converted in $ at daily average exchange rate.

Table 4. **Direct investment abroad from OECD countries: outflows 1981-1991**

As a percentage of GDP

	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
Australia	0.4	0.4	0.3	0.7	1.1	1.9	2.4	1.8	1.0	0.4	0.0
Austria	0.3	0.2	0.3	0.1	0.1	0.3	0.3	0.2	0.7	1.0	0.8
Belgium-Luxembourg	0.0	–0.1	0.4	0.4	0.3	1.4	1.7	2.3	3.9	3.4	3.1
Canada	2.0	0.2	0.8	0.7	0.8	1.1	1.7	1.1	0.8	0.2	0.6
Denmark	0.2	0.1	0.3	0.2	0.5	0.8	0.6	0.7	1.9	1.2	1.6
Finland	0.3	0.2	0.3	1.0	0.7	1.1	1.3	2.5	2.7	2.4	1.7
France*	0.8	0.6	0.4	0.4	0.4	0.7	1.0	1.3	1.9	2.3	1.7
Germany*	0.6	0.4	0.5	0.7	0.8	1.1	0.8	1.0	1.2	1.5	1.3
Italy*	0.3	0.3	0.5	0.5	0.4	0.4	0.3	0.6	0.2	0.6	0.6
Japan*	0.4	0.4	0.3	0.5	0.5	0.7	0.8	1.2	1.5	1.6	0.9
Netherlands	2.6	1.9	1.6	2.0	2.2	1.8	3.3	1.8	5.1	4.6	3.2
New Zealand	0.4	0.4	1.7	0.1	0.8	0.3	1.5	1.4	0.3	5.4	1.2
Norway*	0.3	0.6	0.7	1.1	2.1	2.3	1.1	1.1	1.5	1.4	1.7
Portugal	0.1	0.0	0.1	0.1	0.1	0.0	–0.0	0.2	0.2	0.2	0.7
Spain	0.1	0.3	0.2	0.2	0.2	0.2	0.3	0.4	0.4	0.6	0.7
Sweden	0.7	1.2	1.6	1.6	1.8	2.8	2.8	4.0	5.1	6.2	3.4
Switzerland	0.0	0.0	0.5	1.3	4.9	1.1	0.7	4.7	4.5	2.8	1.9
Turkey	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.1	0.2
United Kingdom	2.4	1.5	1.8	1.9	2.4	3.2	4.6	4.5	4.2	2.1	1.7
United States	0.3	0.0	0.2	0.3	0.3	0.4	0.7	0.4	0.6	0.6	0.5

* Reinvested earnings are not included in national statistics.

Source: OECD/DAF – Based on official national statistics from the balance of payments.

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