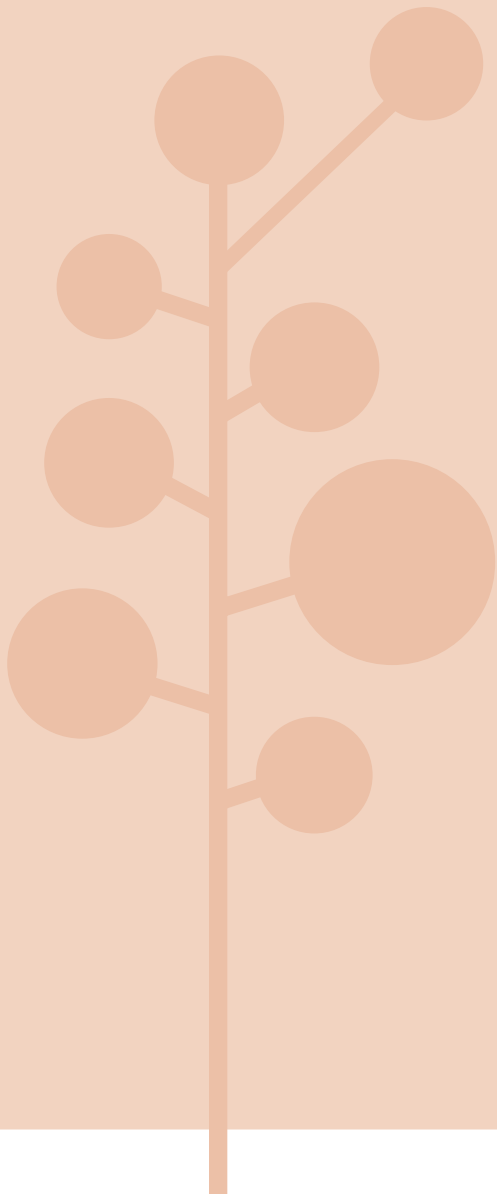
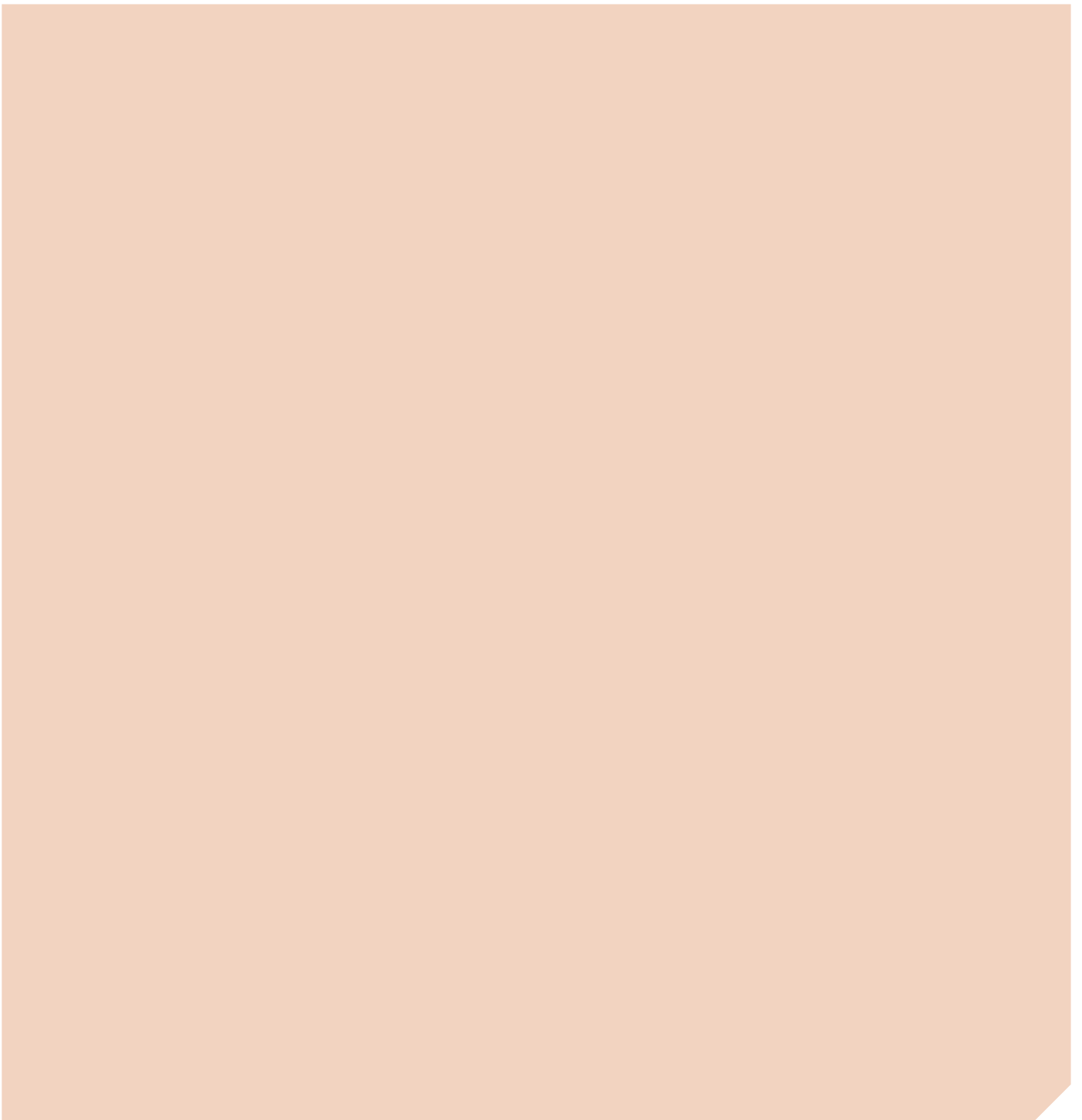




Commerce

This document is a guide to the Commerce portfolio and provides a summary of key issues and themes for the next few years. It accompanies the Ministry of Economic Development's briefing *Advancing Economic Development* which provides an overview of its thinking about economic development policy.





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Introduction

This document is a guide to the Commerce portfolio and Vote: Commerce. It summarises key issues and themes for the next few years. This will be supplemented by separate papers as required.

It accompanies the Ministry of Economic Development's briefing *Advancing Economic Development*, which outlines the key issues Ministers need to consider when devising their strategy to raise New Zealand's rate of economic growth. Our current Ministry profile describes the Ministry's five strategic priorities and the work being done to progress them. It also profiles our organisational structure and provides contact details for our key managers.

Day to day responsibility for the issues and outputs covered by this briefing has been delegated to:

- › Mark Steel, Deputy Secretary, Regulatory and Competition Policy – regulatory policy, legal and competition frameworks and regulatory integration with other jurisdictions;
- › Neville Harris, Deputy Secretary, Business Services – service delivery and enforcement in relation to the Companies' Office, the NZ Trustee and Insolvency Service, the Intellectual Property Office of NZ and other related services;
- › David Smol, Deputy Secretary, Resources and Networks – information technology policy, environmental and resource regulation.



Geoff Dangerfield

CHIEF EXECUTIVE

Overview

Vote: Commerce is a large and complex portfolio comprising the following major areas:

- › **A broad range of policies and laws that impact on the way business operates in New Zealand** – The main areas are corporate governance, intellectual property, financial markets, insurance, non-bank financial institutions, competition, standards and conformance, and government purchasing policy. The Ministry provides policy advice on these matters, runs the corporate and intellectual property registers and enforces the corporate governance statutes.
- › **The international dimension of the policies and laws summarised above plus tariff policy and trade remedies** – Ministry of Economic Development officials have a significant involvement in trade negotiations to facilitate cross-border business and to ensure our domestic regulatory objectives are not undermined by more integrated markets.
- › **Quality of regulation** – We have the lead role in promoting measures to improve the quality of regulatory analysis and processes across government combined with taking an overview of business compliance cost reduction.
- › **Regulatory impact analysis** of current and proposed environmental legislation and multilateral agreements, and administration of import and export controls for ozone depleting substances and hazardous waste.

Appendix 4 summarises policy, registry, enforcement and adjudication responsibilities within the Commerce portfolio.

Vote: Commerce covers both policy responsibility for, and administration of, some 50 statutes, six Crown entities and one trans-Tasman organisation. It extends across three branches of the Ministry of Economic Development: Regulatory and Competition Policy, Resources and Networks, and Business Services. The Business Services branch includes the Companies Office, Insolvency and Trustee Service and the Intellectual Property Office. The annual appropriation for Vote: Commerce is in the order of \$72.590 million: \$9.101 million for policy advice outputs, \$36.271 million for operational services that generate fee incomes, \$21.664 million for purchasing outputs from a number of Crown entities and \$5.554 million for non-departmental expenses that relate to the Crown's membership in various organisations and possible Crown entities' litigation activities.

This introduction highlights the key features of the portfolio, and the challenges ahead.

The portfolio includes most of the laws needed to support innovation and economic growth, i.e. the laws governing competition, intellectual property, insolvency, corporate governance, insurance, financial reporting, the raising of capital, and conduct in financial markets. New Zealand is regarded internationally as having a modern and sophisticated regulatory system and effective regulatory institutions. In some areas, such as using information technology to keep down compliance costs for business, we are a world leader. There has been, and continues to be, a significant law reform programme in business law. This has been driven, in some cases, by the need to bring old laws up to date (insolvency

law and intellectual property law), in others, to align our laws more closely with the international mainstream (securities law), and in others, to implement our international obligations (some parts of intellectual property law).

The challenges we face in this area are:

- › Maintaining a regulatory system for business that is appropriate for a small economy and largely small firms, while at the same time allowing us to interconnect with other economies, both to encourage overseas investment into New Zealand and to reduce costs for our firms operating in Australia and other overseas markets. Generally these objectives are complementary, but tensions arise from time to time.
- › Striking the right balance between the rights and obligations of consumers, and those of business. If too much weight is put on the former then productive business activity and innovation could be stifled. However, a reasonable level of consumer protection is required both to protect the vulnerable and encourage people to invest in shares.
- › Maintaining regulatory capacity. Regulators such as the Securities Commission and the Commerce Commission are being given more functions, and, in some cases, additional powers, and they need to build capacity rapidly to administer the law effectively.

Judgments on all of these areas are reflected in Bills such as the Securities Legislation Bill and the Insolvency Law Reform Bill. These are currently at an advanced stage in the legislative process. Judgments are also needed on policy such as the review of financial products and providers, and the review of financial intermediaries, which is at a formative stage. The absolute size of the policy and legislation programme itself creates a challenge, not least in terms of parliamentary time. Withheld under Section 9 (2) (F) (iv) of the Official Information Act 1982.

The portfolio also includes the institutions that develop New Zealand's standards for goods and services, and the means by which firms can demonstrate that they are meeting these standards. Known as the standards and conformance infrastructure, these institutions support private commerce, significant elements of the regulatory system, such as electrical safety and building controls, and New Zealand's trade policy and current negotiations with countries such as China.

The challenges we face in this area are:

- › Ensuring that our standards and conformance infrastructure continues to be, and is recognised internationally as being, at the leading edge of practice for both standards development and conformity assessment.
- › Strengthening the relationship between regulators and the infrastructure bodies so that the greatest possible use is made of our standards-writing and conformance capacity.

A draft Bill currently on the legislative programme brings the statutory framework for the standards and conformance infrastructure up to date. The infrastructure is also being reviewed, examining, amongst other things, the relationship between the standards and conformance and regulatory systems, and funding issues.

The portfolio has a significant international focus. This reflects the fact that a number of the areas for which this Ministry has policy responsibility are elements of international negotiations or, as discussed above, involve trans-Tasman or international convergence of laws. The areas include tariff policy (including rules of origin), trade remedies, government purchasing, standards and conformance, intellectual property, competition policy, insolvency and the regulation of securities markets. We are very active participants in negotiating closer economic partnerships, including the negotiations with China, and lead much of the business law coordination work with Australia.

The challenges we face in this area are:

- › Knowing when and how much to coordinate our policies and laws with Australia. On the one hand, coordination has the benefit of reducing compliance costs for firms operating in Australasian markets, gives both countries more leverage in influencing international practice and helps compensate for a lack of regulatory capacity, which is becoming more of an issue for small countries. On the other hand, close coordination (where New Zealand and Australia take on reciprocal obligations) can involve making tradeoffs between what we might regard as optimum policy or law in a domestic context, in favour of a trans-Tasman regime.
- › Determining how ambitious we should be in the closer economic partnership negotiations. For example, there are more traditional at-the-border issues on the table for negotiation, such as reducing tariff levels. However, it is increasingly recognised that some of the more significant barriers to entry to the markets of the negotiating partner, and some of the more significant costs to firms operating in those markets, arise out of behind-the-border laws and their administration. These include different standards and conformance requirements and, in some cases, weak enforcement of intellectual property laws. Addressing these behind-the-border barriers potentially opens up new areas for negotiation to identify new mechanisms to lower them.

As noted, we are currently involved in a number of closer economic partnership negotiations, including those with China, Malaysia and the Association of Southeast Asian Nations. On the trans-Tasman front, jointly with Australia, we are undertaking the first five-year review of the Memorandum of Understanding on Business Law Coordination. An outcome of this will be a revised action agenda for coordination work over the next five years. We are discussing with

Australia a number of coordination issues, in areas such as competition law and the administration of intellectual property regimes, and are progressing coordination work that has already been agreed in areas such as accounting standards, mutual recognition of securities offerings and goods and services (under the auspices of the Trans-Tasman Mutual Recognition Arrangement).

The portfolio includes responsibility for the regulatory impact analysis regime. The objective of this regime is to encourage departments to undertake good quality policy analysis and, in the context of this, factor in the impacts on business of proposed new policies and laws. The activities undertaken in this area are training on regulatory impact analysis, advice on preparing regulatory impact statements that must accompany all Cabinet papers proposing either primary legislation or regulations, and formally reviewing regulatory impact statements that have a business compliance cost statement attached, i.e. the proposal will have compliance cost implications for business. We comment, in terms of the adequacy of information on the problem that needs to be addressed, on the costs and benefits of the options for addressing the problem and who was consulted, and on whether the accompanying regulatory impact and business compliance cost statements are adequate or not. In addition, we also informally advise departments on impact statements that do not require a business compliance cost statement.

The challenges we face in this area are:

- › Encouraging some policy advisors to think of the regulatory impact statement not as a compliance cost but as an important discipline that should be built into the policy development process from the beginning and that will result in better quality policy advice.
- › Strengthening the incentives on departments to produce high quality regulatory impact statements. This is not simply a matter of departments taking the regime seriously, but in some cases building their capability to provide good quality advice consistently.

We have been discussing with departments a proposal to extend our formal review of regulatory impact statements to include all regulatory proposals that have business impacts, not just the sub-set of those that create compliance costs, and also on other ways in which the regulatory impact statement regime can be improved.

Finally, Vote: Commerce is fully integrated into the Ministry of Economic Development as a whole. We work closely with other branches, including the Ministry of Consumer Affairs, on our common objective of sustainable economic development.

The role of government in promoting business and economic growth

Government has three broad roles in promoting business and economic growth:

- › ensuring appropriate and stable macroeconomic policy settings (price stability and fiscal balance)
- › ensuring appropriate legal and regulatory frameworks, enforcement and service delivery that support competition, participation in markets, and a low-cost business environment – in short, ensuring high quality microeconomic foundations for growth
- › within the disciplines of these frameworks, identifying appropriate interventions to support and accelerate the growth of innovative businesses and support industry and regional development.

The Ministry of Economic Development, through Vote: Commerce, plays a central part in the second of these roles and a partial role in the third.

Strategic priorities

The Ministry's strategic priorities focus our expertise and resources on activities that have the most impact for sustainable economic development. In summary, these are:

- › **leadership** – leading a whole-of-government approach to economic development
- › **international linkages** – improving international linkages that allow firms to benefit from trade, knowledge transfer and investment
- › **innovation** – fostering entrepreneurship and innovation in New Zealand firms
- › **regulatory environment** – strengthening the growth focus in the regulatory environment for business
- › **infrastructure** – strengthening the quality and reliability of key infrastructure services.

In keeping with the Ministry's five strategic priorities, the work programme under Vote: Commerce over the next three years will include:

- › ensuring New Zealand's business laws (with financial sector law the current priority) are robust and effective, encourage participation in the sector and, where appropriate, are consistent with international best practice and developments in Australia, in order to position New Zealand as a quality place to invest
- › ensuring New Zealand's intellectual property statutes support the growth of innovation in the economy
- › driving improvements in government departments' quality of regulation and reducing compliance costs
- › improving New Zealand businesses' ability to compete internationally by contributing to bilateral free trade negotiations and reducing technical barriers to trade

- › protecting and advancing New Zealand's economic interest under international agreements, including the next round of trade negotiations under the World Trade Organization
- › ensuring environmental and conservation measures, in particular the Resource Management Act 1991 and the Hazardous Substances and New Organisms Act 1996, are implemented in a well-targeted, effective and low-cost way
- › enabling all New Zealanders to participate in the growth opportunities offered by the new electronic environment supported by the internet.

Policy Advice Outputs

This Ministry's policy advice focuses on developing and maintaining a high-quality framework of rules to support efficient business organisation and activity in an open and competitive domestic and international economy. As issues move beyond the traditional trade agenda to include investment, competition and corporate governance and integrating international and domestic regulatory regimes, we play an important role in identifying New Zealand's broader external economic objectives and priorities. Accordingly, the Ministry's activities under Vote: Commerce have a strong international dimension.

The two branches responsible for delivering policy advice under Vote: Commerce are:

- › Regulatory and Competition Policy branch, under Deputy Secretary Mark Steel
- › Resources and Networks branch, under Deputy Secretary David Smol.

Regulatory and Competition Policy branch is accountable for outputs across all the policy areas under Vote: Commerce, except for environmental issues with an economic perspective – the Resources and Networks branch is responsible for those. In addition, the Business Services branch, under Deputy Secretary Neville Harris, is responsible for certain enforcement and service delivery activities, including registering and granting intellectual property rights, administering insolvencies and registering and inspecting documents under the Companies Act, the Securities Act and other legislation. (The Ministry's Statement of Intent has further details on the range of outputs produced within several output classes under Vote: Commerce).

The broad areas of policy advice under Vote: Commerce are:

- › business law
- › intellectual property
- › competition policy and law
- › quality of regulation and business compliance costs
- › standards and conformance
- › tariff policy and trade rules
- › government procurement policy
- › environmental policy and resource regulation
- › Crown entities.

The work done in relation to each of these areas is outlined further in the following sections.

Business law

A high-quality business law framework, benchmarked against the rest of the world and which underpins a sound and efficient financial sector, is a key element of the foundation for economic growth. Business laws cover financial markets, financial institutions, corporate governance, insolvency, personal property securities and insurance. These laws aim to promote growth and innovation in

the business sector, encourage wealth accumulation and facilitate effective risk management by:

- › increasing our financial markets' efficiency, effectiveness and integrity to improve participation and reduce the cost of capital to businesses
- › encouraging firms to adopt appropriate corporate forms and make sound business decisions.

Next three years

A very extensive programme of business law reform is well underway. The review is focused on three dimensions: the laws' substance and their enforcement, and cooperation on law reform initiatives with Australia.

- › **A review of financial products and providers** – This review covers all non-bank financial products and providers. Its purpose is to ensure that New Zealand has a regulatory regime that promotes a sound and efficient financial sector in which consumers and investors have confidence. The previous Minister of Commerce (in consultation with the Minister of Finance) agreed on general directions for reform, with policy decisions expected in mid- to late-2006. Closely related to this work is a review of financial intermediaries. An independent Financial Intermediaries Taskforce has reported to government with recommendations on improving the quality and advice that financial intermediaries provide. In principle policy decisions are anticipated to be made on the Taskforce's recommendations after the general election.
- › **The Financial Reporting Review** – This review makes changes to the Financial Reporting Act to ensure that New Zealand can effectively adopt international financial reporting standards by 2007. It also addresses some deficiencies with several aspects of our regime. In particular, legislation is likely to change the enforcement and institutional arrangements relating to financial reporting, and amend who should be required to provide financial reports. The Ministry has finished its policy analysis and will make final policy recommendations before the end of calendar year 2005. Before we do so, we are undertaking a further round of feasibility testing with the Accounting Standards Review Board and the Securities Commission.
- › **The Securities Legislation Bill** – This Bill amends the way in which securities trading law applies to certain financial products, strengthens the law relating to insider trading, introduces comprehensive prohibitions on market manipulation, improves the quality and enforcement of investment adviser disclosure law, improves the law relating to substantial security holders' disclosure, and increases the range and size of penalties and remedies. The Bill has been reported back by the Commerce Select Committee and is due for its second reading. A small supplementary order paper will be required for the Committee-of-the-Whole stage of the Bill. Cabinet agreement on the supplementary order paper is to be sought after the general election.

- › **KiwiSaver** – Treasury is currently leading work on developing a New Zealand workplace savings scheme called KiwiSaver, a scheme to assist New Zealanders save for their retirement. The Ministry administers the Superannuation Schemes Act and has been involved in the scheme’s policy and drafting, and is in the process for tendering of providers. We have a particular interest in the scheme’s impacts on providers, employers and investors. A draft Bill is expected to be introduced towards the end of 2005 or the beginning of 2006.
- › **The Insolvency Law Reform Bill** – This Bill modernises and simplifies the procedure for administering insolvent individuals’ estates, introduces a no-asset procedure as an alternative to bankruptcy for those who are unable to repay their debts, and introduces a procedure that allows for rehabilitation of insolvent companies, which is modelled on the Australian voluntary administration procedure and provides for the United Nations Commission on International Trade Law Model Law on Cross-Border Insolvency to be adopted. It creates a mechanism that will enable regulations to be made to allow a single proceeding for insolvencies between New Zealand and other specified countries. It will also consider the regulation of insolvency practitioners. Policy decisions have been approved by Cabinet on all issues other than insolvency practitioner regulation. The options open to government are to proceed with the existing Bill in 2005 and introduce a separate Bill on insolvency practitioner regulation later, or wait a further six months and introduce a comprehensive Bill. We shall provide you with advice on this matter shortly.
- › **The Limited Partnerships Bill** – This Bill is currently being drafted and implements a new limited partnership regime that meets international best practice. This Bill is designed to help encourage the flow of venture capital into New Zealand. We anticipate it being introduced in mid-2006, but this depends on IRD’s work on the tax flow status of limited partnerships.
- › **A mutual recognition regime for securities offerings between Australia and New Zealand** – This regime would allow securities to be offered in both countries, with issuers of securities having to comply only with their home jurisdiction regulation and some minimal entry and ongoing requirements. The regime will facilitate investment between the two countries, enhance competition, reduce costs for businesses and increase consumer choice. Cabinet policy decisions have been made and a treaty between Australia and New Zealand is likely to be signed in October, with regulations currently being drafted to give effect to the regime.

The effectiveness of business law statutes is not determined simply by the soundness of their substantive provisions and whether the penalties and remedies provisions promote general deterrence. In addition, New Zealand’s regulatory agencies need to have:

- › sufficient resources to enforce and administer the law effectively
- › highly-qualified members with leadership qualities, a sound understanding of the key roles of those bodies and the will to perform those roles well.

The Ministry recommends resourcing levels and membership appointments for, and monitors the performance of, four business law Crown entities – the Commerce Commission, the Securities Commission, the Takeovers Panel and the Accounting Standards Review Board. The first three of these have enforcement roles under various statutes that regulate business activity, while the fourth approves financial reporting standards.

Intellectual property

A sound intellectual property rights regime is central to supporting a creative, innovative economy and attracting international investment in creative business endeavours in New Zealand. The broad rationale for granting intellectual property rights is that they provide economic incentive to innovate. These benefits need to be balanced against the costs associated with granting these exclusive rights, that include constraints on competition, impacts on prices and choices for consumers, and constraints on broader cumulative innovation by other parties.

In making judgements about the optimal intellectual property regime for New Zealand, the following factors are significant:

- › New Zealand is a net technology importer and must carefully consider the cost of further increasing intellectual property protection.
- › The need to attract foreign technology and foreign investment.
- › The changing centres of technological innovation in the New Zealand economy. Where once this innovation used to be centred on the primary sector, today it is more widely distributed through broader creative industries, and the information and communication technology, and biotechnology sectors.
- › The challenges of digitalisation.
- › The need to meet New Zealand's international obligations under the World Trade Organization's Trade-Related Aspects of Intellectual Property Rights Agreement and the various World Intellectual Property Organization treaties.
- › There may be both costs and benefits of including intellectual property issues in free trade agreements or coordinating intellectual property regimes with other countries such as Australia, not all of which will relate to the intellectual property regime. Tradeoffs may be required.

Next three years

The Ministry is engaged in comprehensively reviewing New Zealand's major intellectual property statutes: the Geographical Indications Act 1994, the Copyright Act 1994, the Patents Act 1953 and the Plant Variety Rights Act 1987. (Many of these reviews are nearing completion). It is also exploring opportunities for intellectual property coordination with Australia in the areas of patents, trade marks and plant variety rights, and is in the early stages of a work programme (part of the Ministry's Māori economic development strategy) that is to examine the interface between intellectual property and the traditional knowledge of indigenous and local communities. We are continuing our review of the impacts of removing the ban on parallel importing on the creative industries (a partial ban

having been re-introduced in 2003), examining New Zealand's possible accession to a number of international treaties in the area of trade marks and reviewing the enforcement of the criminal provisions against counterfeiting and piracy available under both the Trade Marks and Copyright Acts. Advice on the intellectual components of free trade agreements and multilateral negotiations is also an important work area.

The intellectual property law reform work contributes to a number of our strategic priorities, including those relating to innovation and international linkages. It has two dimensions:

- › technical and operational updating to reduce compliance costs and reflect international best practice
- › amendments that give effect to government's broader economic development objectives.

The work on protecting traditional knowledge and intellectual property also contributes to government's goals in relation to Māori economic development and social and cultural objectives.

Current work in progress includes:

- › The Geographical Indications (Wine and Spirits) Registration Bill. This brings New Zealand law on geographical indications into line with international developments. It is awaiting its first reading in Parliament.
- › Drafting of a new Patents Bill and Plant Variety Rights Bill. This is nearly complete. The timing of the Patents Bill has been delayed to allow options for coordination with Australia to be considered.
- › The Copyright (New Technologies and Performers' Rights) Amendment Bill, which is ready for introduction to Parliament.
- › Further considering options for intellectual property coordination with Australia on delivering intellectual property services. (Information on the delivery of intellectual property services by the Intellectual Property Office of New Zealand is provided in the section on enforcement and service delivery outputs).
- › Continuing the traditional knowledge work programme as part of the Ministry's Māori economic development strategy.
- › Reviewing section 21 of the Copyright Act 1994 relating to commissioning certain types of copyright works.
- › Reviewing the enforcement of the criminal provisions against counterfeiting and piracy available under both the Trade Marks and Copyright Acts to determine if the Ministry's National Enforcement Unit might play a role in enforcement activities. This project arose in recognition of the fact the police have been unable to dedicate significant resources to intellectual property law enforcement. Most intellectual property rights do not, however, have criminal sanctions, but are privately enforced.
- › Preliminary research on the impact of contract law on the Copyright Act 1994.

- › Promoting and protecting New Zealand's interests in free trade agreements, the World Trade Organization and World Intellectual Property Organization, including those in respect of geographical indications and traditional knowledge.

Competition policy and law

Businesses can start and thrive, and consumers get a fair deal, when anti-competitive behaviour is restricted and firms compete fairly under transparent rules. The Ministry is responsible for administering the Commerce Act 1986, which regulates the competitive environment by a set of general and specific prohibitions that apply, with some minor exceptions, to all business activity within New Zealand. The broader aims of the Commerce Act are to promote efficient resource allocation and use, to promote innovation and to protect consumers from monopoly pricing. Applying the same standard of competitive conduct across the economy largely avoids the need for industry-specific regulation. The Commerce Act was substantively amended and strengthened in 2001 when the Commerce Amendment Bill 1999 was passed.

Other recent legislation has also had important competition implications: the Dairy Industry Restructuring Act 2001 authorised one large dairy company, Fonterra, being created, but also stipulated that Fonterra should be fully subject to the disciplines of the Commerce Act; the Telecommunications Act 2001 and the Electricity Industry Reform Act 1998 have also introduced specific regulations in the telecommunications and electricity sectors. These sectors continue to be regulated within the generic competition framework provided by the Commerce Act, with specific regulations providing additional provisions to achieve competition objectives within these industries.

Next three years

The strategic priorities for the next three years include:

- › Monitoring and evaluating the Commerce Commission's greatly extended role and functions. The Commission is a key institution that plays an important role in ensuring that competitors compete in well-functioning markets and that New Zealand consumers benefit from competitive prices, better quality and greater choice. Its roles and functions have increased greatly in recent years, when sector-specific functions, functions under the Credit Contracts and Consumer Finance Act 2003 and new consumer information standards under the Fair Trading Act 1986 were added. Officials will continue to monitor and evaluate the Commission's capability to fulfil these increased functions.
- › Supporting the introduction and passage of the Commerce Commission (Information Sharing and Fees) Bill in the House. The main impact of the legislation will be to strengthen the Commerce Commission's ability to share information with overseas competition authorities.
- › On-going scrutiny of New Zealand's competition policy framework and operation of the Commerce Act 1986 to ensure that it supports dynamic growth in a small economy.

- › Continued work on policy coordination with Australia, including towards implementing recommendations from the Australian Productivity Commission's report (e.g. on information sharing, cross-appointments between competition authorities and joint authorisations).
- › Developing a discussion document that will be largely devoted to issues arising from work on coordination with Australia. Some of the matters to be considered in this process are Parts 4 and 5 of the Commerce Act (including the price control provisions), which relate to criminal sanctions, joint ventures and collective bargaining.
- › Contributing to the analysis of competition in specific sectors or industries (e.g. gas, telecommunications, health and education services).
- › Contributing to the developing international agenda for competition law and policy in the OECD and WTO, as well as supporting competition policy issues in New Zealand's bilateral and regional trade agreements being included, and recognising the increasing importance of developing international competition and regulatory principles for advancing trade liberalisation.

Quality of regulation and business compliance costs

High-quality regulation supports sustainable economic growth, but poorly-designed regulation can impede growth. The primary ways this can occur are because innovation and entrepreneurial risk-taking are curtailed, and unnecessary compliance costs are imposed on business. Recent trends indicate that the stock of regulation in OECD countries is getting bigger, with regulation tending to build upon itself rather than be rationalised over time. In addition, society is tending to becoming more risk averse. Bearing this in mind, the challenge is to have a mechanism for determining whether regulation is needed to deal with a problem and, where it is, to devise regulations that can effectively achieve objectives that minimise burdens on those regulated and any adverse side effects on others.

The Ministry, through the Regulatory Impact Analysis Unit, has responsibility for reviewing, and assessing for adequacy, those regulatory impact statements that have business compliance cost statements. These statements outline the regulatory impact analysis process, which departments do when providing Ministers with policy advice. This analysis has been identified internationally as a key means governments currently have for encouraging best practice process in regulation-making. The Unit is focused on improving the quality of such analysis across government in order to improve the quality of policy advice.

The Occupational Regulation Framework (for which the Ministry is responsible) provides a framework for government departments to consider and apply when thinking about whether or not to regulate a particular profession or occupation. The Ministry continues to play a role in advising departments on applying the framework to their policy consideration of a wide range of professions including, most recently, health practitioners, motor vehicle traders and financial intermediaries.

Next three years

The central priorities over the next three years will remain improving the analysis of regulatory impacts on business and encouraging better policy development across government. This requires us to further build our understanding of how regulations impact on business performance and innovation, and to work with other government departments to increase the transparency of regulation development.

Key projects over the next twelve months include:

- › On-going review of regulatory impact and business compliance cost statements, and providing training for departments on doing the analyses and preparing the statements.
- › Revising the guidelines for departments when undertaking regulatory impact analyses and preparing regulatory impact and business compliance cost statements.
- › Progressing a proposal to change the Regulatory Impact Analysis Unit's mandate so that it would assess the adequacy of regulatory impact statements that have an impact on business, as opposed to only those that have incremental business compliance costs associated with them.
- › Evaluating and trialling what is known as the Dutch standard costing model to estimate the administrative burden of new regulation and look back at existing regulation. If it proves useful in New Zealand's circumstances, it will help create better benchmarks for the impact of regulation in the future.
- › Developing a regulatory portal that will be a web-based one-stop-shop for policy analysts with commentary and linkages to relevant domestic and international websites on how to undertake policy development.

Standards and conformance

The Ministry is responsible for policy advice that promotes an efficient standards and conformance infrastructure in New Zealand. A quality infrastructure facilitates domestic economic transactions and trade with the rest of the world and meets the government's health, safety and environmental objectives. We play a key role in coordinating standards and conformity assessment requirements with New Zealand's key trading partners to reduce technical barriers to trade. This advances New Zealand's interests in the Technical Barriers to Trade Committee of the WTO, the APEC Subcommittee on Standards and Conformance and other international fora. We are responsible for negotiating and providing policy advice on the value of New Zealand participation in mutual recognition arrangements with other economies. New Zealand has two bilateral understandings: the European Union/New Zealand Mutual Recognition Agreement on Conformity Assessment and the Trans-Tasman Mutual Recognition Arrangement with Australia.

We are also involved in the negotiations of new closer economic partnership agreements and free trade agreements with bilateral trade partners. Technical barriers to trade are increasingly becoming a major obstacle and have become a

key focus for international trade negotiators. Free trade agreements provide an opportunity to develop productive and on-going regulator-to-regulator relationships, with the aim of addressing technical barriers to trade, facilitating trade and enhancing regulatory compliance and risk management.

We also play a key coordination role across the public sector on approaches to standards and conformance issues and how they interface with international practice.

The Ministry is responsible for managing the Crown's ownership interests in two Crown entities with responsibility for standards development and accreditation of testing and calibration laboratories and inspection bodies – the Standards Council and the Testing Laboratory Registration Council.

We are also responsible for representing New Zealand's interest on the board of the Joint Accreditation System of Australia and New Zealand. This primarily provides accreditation of certification bodies in New Zealand and Australia undertaking certification of quality management systems, environmental management systems and product and personnel certification.

The Trans-Tasman Mutual Recognition Arrangement

The Trans-Tasman Mutual Recognition Arrangement aims to reduce regulatory barriers to the movement of goods and services between New Zealand and Australia. New Zealand's standards and conformance infrastructure is closely aligned with that of Australia. The confidence associated with this close alignment underpins the Arrangement.

The two economies have become more integrated in the last 20 years, and the Trans-Tasman Mutual Recognition Arrangement has played an important part in achieving this. The Arrangement, which came into effect on 1 May 1998, is a non-treaty arrangement between the Commonwealth, State and Territory Governments of Australia and the Government of New Zealand. It is a cornerstone of a single economic market as a powerful driver of regulatory coordination and integration.

It provides that goods that can be sold in Australia can be sold in New Zealand without having to be further tested or certified. It allows for someone registered to practice an occupation in one country to register to practice an equivalent occupation in the other, without the need to undergo further testing or re-examination. The Arrangement has helped the workforce move more freely between New Zealand and Australia and has removed many of the costs and difficulties involved in the trans-Tasman trade in goods and services.

The Trans-Tasman Mutual Recognition Act 1997 overrides other Acts. The Ministry is responsible for administering and providing policy advice on the Arrangement.

Next three years

The Ministry will continue to give priority to regulatory coordination with Australia to support a single trans-Tasman market for goods and services. Australian and New Zealand senior officials completed a mandated cross-jurisdictional review of the Mutual Recognition Arrangement in December 2004. Heads of governments party to the Arrangement have endorsed the review recommendations, which officials will now proceed to implement. A key recommendation is that governments undertake information and education initiatives to improve regulators' and other stakeholders' awareness and understanding of the Arrangement's strategic objectives and obligations. The review also recommends establishing central contact points in each jurisdiction to address mutual recognition issues, and that a group of senior officials from New Zealand and Australia be established with a forward-looking mandate to promote consideration of emerging regulatory coordination issues. The review recommends that the existing special exemption cooperation programmes continue, but that the administration mechanisms for resolving exclusions and exemptions, and reporting requirements under the Arrangement be made more efficient.

The Ministry will continue to build its understanding of evolving international approaches to meeting regulatory objectives in the areas of health, safety and the environment, of how these are shaping countries' approaches to their standards and conformance infrastructures, and of the implications for New Zealand. We have initiated a Standards and Conformance Infrastructure Review to:

- › evaluate the New Zealand standards and conformance infrastructure against international best practice models and New Zealand specific requirements
- › identify any shortcoming of the current New Zealand model, particularly in the context of meeting the needs of commerce, industry and government
- › assess the strengths and weaknesses of current standards-setting and conformity assessment models that regulators use to meet their regulatory objectives
- › identify what financial, effectiveness and efficiency constraints, if any, hamper the standards and conformance infrastructure being further developed.

The review findings will identify key priority areas that warrant further investigation and will form the basis of future work in this area during the following two years.

Tariff policy and trade rules

The Ministry plays a central role alongside the Ministry of Foreign Affairs and Trade and others in promoting New Zealand's external economic interests, especially at the WTO and in free trade agreement negotiations. The Ministry has prime responsibility for providing advice on tariff policy (including rules of origin, market access and tariff concessions), trade remedies and government procurement.

Tariff policy

We are responsible for the Tariff Act 1988. The Act gives the Ministry the responsibility for advising on, and administering, basic tariff levels and issues that are relevant to the effectiveness of those rates, in particular, rules of origin, legislation relevant to tariff rates and tariff concessions.

New Zealand tariffs are currently frozen until 1 July 2006. A tariff review was completed, and government decisions taken in September 2003 set down a unilateral tariff reduction programme for the period 1 July 2006 to 1 July 2009. Under these decisions, tariffs will begin reducing again: tariffs on clothing, footwear and carpet will reduce to 10% by July 2009, and tariffs on all other goods, not already duty-free, will reduce to 5% by July 2009. Alternative specific tariffs (\$value tariffs) which applied largely to clothing were removed on 1 July 2005 and reverted to the appropriate ad valorem (percentage-based) tariff.

A further tariff review relating to post-2009 tariffs is scheduled for 2006. Officials will provide policy advice on this review to Ministers, taking into account international developments both in the WTO and in relation to New Zealand's free trade agreement negotiations, by the end of 2005.

Tariff concessions

The Ministry administers the tariff concessions scheme, which is designed to remove unnecessary duty imposts where alternative goods are not made locally, reduce production costs and enable New Zealand manufacturers to become more internationally competitive. As tariffs have reduced, the number of concession applications has continued to decline over recent years. The number of applications received last year (509), however, indicates that the scheme remains a significant element of overall industry policy.

Trade remedies

The Ministry administers New Zealand's trade remedies regime under the Dumping and Countervailing Duties Act 1988 and the Temporary Safeguard Authorities Act 1987. It is also responsible for providing advice on the development of trade remedies rules in the WTO.

'Trade remedies' is the general term to describe measures to protect domestic manufacturers from specific cases of injurious imports arising from:

- › Dumping and subsidisation – the Ministry's Chief Executive is responsible for conducting investigations. The Vote Minister is responsible for making final determinations as to whether dumping or subsidisation is causing injury, and on all decisions relating to duties under the Act. The processes and practices are defined by international rules established by the WTO.
- › Sudden increases in the volume of imports – a Temporary Safeguard Authority carries out the inquiry and reports to the Minister on whether urgent action is needed to protect a domestic industry. The Minister is responsible for appointing an authority.

Rules of origin

The Ministry has responsibility for preferential and non-preferential rules of origin policy. Rules of origin are a key element of free trade and closer economic partnership agreements, including the Australia New Zealand Closer Economic Relations Trade Agreement. A top priority for the Ministry is to advance the reform of CER rules of origin. The existing rules are not only constraining New Zealand exporters' ability to access the Australian market under preference, but also the ability of firms to extract further efficiencies that would support their international competitiveness. Both governments have agreed that the rules are out of date and need reform. At the CER Ministers' meeting in December 2004, it was decided to change the CER rules, based on the regional value content formula to confer origin, to a change of tariff classification model. Agreement has been reached in almost all areas except men's and boys' structured apparel. A final effort is being made to resolve this issue.

New Zealand has also moved to a change of tariff classification model for rules of origin under the Closer Economic Partnership Agreement with Thailand and the Trans-Pacific Strategic Economic Partnership Agreement with Chile, Brunei and Singapore (known as P4). The focus for 2006 will be on the rules of origin for our free trade agreements with China, Malaysia and the CER free trade agreement with the Association of Southeast Asian Nations, all of which are currently being negotiated. Businesses generally support the change of tariff classification model but many are particularly interested in ensuring that the different trade agreements' rules of origin are closely aligned.

Government procurement

The Ministry is responsible for developing and advising on government procurement policy. A review of New Zealand's government purchasing framework was undertaken in 2001. Following the review, government expects departments, and encourages other public sector agencies, to be guided by a number of procurement principles adopted by Cabinet [CAB Min (01) 11/18]. The New Zealand procurement model supports decentralised, globally open and competitive public sector procurement markets. The main objective is to ensure that government can obtain best value for money. Within this framework, the policy aims to improve information flows to maximise opportunities for New Zealand suppliers. Departments are required (and other agencies encouraged) to notify the Industry Capability Network of intended purchases valued at over \$50,000, and to publish contract award notices on the internet.

There is an important international dimension to government procurement policy. New Zealand is committed to maintaining an open government procurement market with Australia under the Australia New Zealand Government Procurement Agreement (an instrument under the CER), and with Singapore, Chile and Brunei under the recently negotiated Trans-Pacific Strategic Economic Partnership Agreement. The Ministry also participates in the negotiations of free trade

agreements and in the APEC context to promote greater transparency and openness in government procurement markets.

The Ministry's Review on Government Procurement Implementation and Innovation will be completed during the later part of 2005. The focus for next year will be to implement the review findings.

Next three years

A key priority over the next three years is to ensure New Zealand's interests in relation to tariffs and trade rules are advanced in the WTO Doha round of negotiations and under our free trade agreements. Free trade agreements to be negotiated over the next three years include an agreement with Malaysia, with Australia and the Association of Southeast Asian Nations, and with China.

The Ministry will continue to build its understanding of key drivers of trade policy and rules positions internationally and of their impact on economic development.

In the trade remedies area, a review is to commence shortly of the legislation under which a Temporary Safeguard Authority carries out a safeguards inquiry and reports to the Minister. The aim of the review is to ensure that our legislation is fully effective in providing for urgent safeguard action in accordance with WTO rules.

Environmental policy and resource regulation

The Ministry provides policy advice under Vote: Commerce on environmental measures from an economic development perspective, with a particular focus on the Resource Management and Hazardous Substances and New Organisms Acts, and government programmes such as that on a waste strategy. It is particularly focused on developing a better understanding of the implications of the Hazardous Substances and New Organisms Act for growth and innovation and on looking at ways to improve how both that Act and the Resource Management Act operate to reduce compliance costs for business.

The Ministry also provides advice on:

- › multilateral environmental agreements that impact directly on New Zealand businesses, focusing particularly on the Montreal Protocol (ozone-depleting substances), the Basel and Waigani Conventions (transboundary movement of hazardous wastes), and the Stockholm and Rotterdam Conventions (controls on certain hazardous chemicals)
- › administering domestic requirements pursuant to the Montreal and Basel Conventions on importing and using ozone-depleting substances and the import and transboundary movement of hazardous wastes respectively.

Key emphases of this work are ensuring regulations are targeted and contributing to growth by promoting effective regulatory institutions and reducing uncertainty and compliance costs.

The Ministry seeks to implement New Zealand's international environmental obligations using appropriate domestic regulation that minimises transactions costs for business, for example by:

- › administering, efficiently and transparently, restrictions on importing and using ozone-depleting substances and exporting hazardous wastes
- › using market-based systems to allocate allowable quota where possible
- › ensuring that synergies with other import and export controls are exploited.

The Ministry also seeks to protect New Zealand's interests in this area through participating in international negotiations and ensuring these take into account New Zealand business interests to the greatest extent possible.¹

Next three years

The focus of the Ministry's work in this area over this period will be on gaining a deeper understanding of the growth, innovation and compliance aspects of the cost of both the Hazardous Substances and New Organisms and the Resource Management Acts through a multi-year research programme. Ongoing work on multilateral environmental agreements will cover ensuring that the next phase down in ozone-depleting substances goes smoothly. Officials are also developing a strategy for methyl bromide phase out.

Crown entities

New Zealand must maintain a regulatory infrastructure that mirrors those of other modern states and is able to monitor and enforce business regulations effectively. Effective regulatory regimes require effective regulatory institutions – regulatory institutions such as the Commerce and Securities Commissions and the Takeovers Panel in which the Ministry, on behalf of the Crown, has an ownership interest are particularly crucial. The agencies have an important monitoring and enforcement role and, if regulatory goals are to be achieved, need, too, to work effectively with private institutions like the New Zealand Stock Exchange and professional bodies.

Rapid change, the internationalisation of regulatory policy and Crown entities' changing and expanding roles and functions call for closer collaboration between policy and regulatory/administrative agencies. While this Ministry takes the lead role in developing policy, Crown entities make an important contribution to that process and to implementing policy. Good information flows between ourselves and Crown entities make for a strong mutual understanding of the policy and enforcement environment.

¹ Note that policy advice on the United Nations Framework Convention on Climate change and the Kyoto Protocol is provided under Vote: Energy.

The Ministry is responsible for advising on appointments to the boards, and monitoring and reporting to the Minister on the financial and non-financial performance of the Crown entities and other statutory bodies noted below. (Details of these Crown entities are provided in Appendix 1.)

Crown entities
Accounting Standards Review Board
Commerce Commission
Securities Commission
Standards Council
Takeovers Panel
Testing Laboratory Registration Council
Other statutory bodies
Copyright Tribunal
Joint Accreditation System of Australia and New Zealand
Temporary Safeguard Authority

Commerce Commission

In the course of 2004, four major reviews of the Crown’s ownership relationship with the Commerce Commission were completed. These reviewed:

- > the accountability and purchasing arrangements – this review considered Vote and output class structures
- > the Commission’s baseline funding in the Vote: Commerce Enforcement of General Market appropriation
- > the Commission’s litigation fund
- > the fees charged for authorisation and clearance applications.

The second and third of these reviews recommended increases in Commission funding. Budget deliberations and weighing the recommended increases against other government priorities meant that the Commission received less than initially sought. We intend to continue to monitor Commission capability particularly closely over the next three years to assess whether it is sufficiently funded. Aspects of Commission capability are to be further reviewed in three years’ time.

Standards and conformance infrastructure

The Ministry has commissioned a review of New Zealand’s standards and conformance infrastructure to evaluate how it contributes to, and improves, the competitiveness of New Zealand industry as well as whether it meets government’s objectives. The review will assess New Zealand’s infrastructure against international trends and best practice models as well as New Zealand’s specific standards and conformance requirements. Its findings will cover identifying key priority areas that warrant in-depth investigation; eventually it will

recommend ways to improve the infrastructure. The first part of the review will be completed before the end of the year.

The Standards and Conformance Bill was introduced into Parliament in June 2005. It makes a number of technical amendments to the Standards Act 1988 and the Testing Laboratory Registration Act 1972, and aims to clarify the relevant institutions' functions and align them with international standards and conformance norms and practices.

Financial markets institutions

The domestic institutional arrangements in the New Zealand financial sector are currently being reviewed. Treasury is leading the exercise and an inter-departmental working group, which includes the Ministry, is providing support. This work, operating in tandem with the Review of Financial Products and Providers, is considering which institutions should undertake any additional regulatory functions (in particular, functions around prudential supervision) that this Ministry proposes for the Financial Products and Providers review, and whether any regulatory functions should be consolidated. Officials are due to report back to Ministers on this work in October 2005.

Enforcement and Service Delivery Outputs

Government regulatory regimes require effective enforcement and service delivery systems. These, in turn, need to be supported by efficient, high-quality information systems. Six business units in the Ministry deliver such services to both business and the public. Three of these units deliver outputs under Vote: Commerce – the Insolvency and Trustee Service, the Companies Office, and the Intellectual Property Office. Each of these units provides registry and/or licensing functions in parallel with compliance and enforcement responsibilities.

- › **The Insolvency and Trustee Service** administers bankruptcies and liquidations pursuant to the Insolvency Act 1967 and the Companies Act 1933. It also manages or disposes of property restrained or forfeited under the Proceeds of Crime Act 1991.
- › **The Companies Office** manages the registration of a range of documents and information required, under various Acts, to be filed on a public record by corporate entities, insurance and superannuation funds, and holders of securities against personal property excluding land. The three most significant of these registers are the Register of Companies, the Personal Property Securities Register and the Motor Vehicle Traders Register. The office provides prosecution and enforcement functions under the Companies Act 1993, Securities Act 1978 and Corporations (Investigation and Management Act) 1989.
- › **The Intellectual Property Office of New Zealand** administers legislation that provides for the protection of intellectual property rights in New Zealand. It grants patents under the Patents Act 1953, registers trade marks and designs under the Trade Marks Act 2002 and the Designs Act 1953, and will maintain the register of geographical indications under the Geographical Indications (Wine and Spirits) Registration Bill. The office includes the Plant Variety Rights Office. This administers the Plant Variety Rights Act 1987, which provides for the granting of intellectual property rights, known as plant variety rights, to breeders of new plant varieties.

Next three years

A key strategic objective of the above three business units is to lower the cost of services to business. This, in turn, contributes to the Ministry's supporting goal of minimising transaction costs for consumers and businesses in domestic and international markets. The three specific priorities for the next three years to achieve this outcome are:

- › review the cost of all fee-bearing services
- › e-enable registration and licensing services
- › initiate a programme of organisational and business process reviews.

Projects identified to achieve these objectives over the next three years are:

INSOLVENCY AND TRUSTEE SERVICE

- › Once implemented, the Insolvency Law Reform Bill, which is awaiting introduction after the election, will give the Official Assignee a wider range of powers and functions that allows for more efficient administration of bankruptcy.

COMPANIES OFFICE

Work includes:

- › Monitoring and providing recommendations to 2006/2007 fees structure for the Companies Office to ensure that its 10-year strategy to reduce the memorandum account surplus is maintained. Review and recommendations are to be completed by 31 March 2006 for implementation on 1 July 2006.
- › Establishing the Retirement Villages Register and services. This, however, depends on bringing parts of the Retirement Villages Act into force by Order in Council.
- › Providing integrated services, with other government agencies, to small to medium enterprises via the internet. For instance, the joint Companies Office/IRD initiative will allow someone setting up a new company to ask IRD for a tax number at the same time as they submit their application to the Companies Office.
- › Offering increased access to Australian corporate information (through an agreement with the Australian Securities and Investment Commission) to New Zealand businesses.
- › Developing online services for registers of corporate bodies not currently available electronically.

INTELLECTUAL PROPERTY OFFICE OF NEW ZEALAND

- › As noted above, there is a substantial programme of legislative review planned for the intellectual property area over the coming years. A primary focus will be to ensure that any resulting legislative changes are successfully implemented. We shall also continue discussions with Intellectual Property Australia about opportunities for coordination in patent examination and trade mark and plant variety rights processes.
- › The office will continue to enhance the online services it offers with an extensive suite of new products expected to be released in 2006.

Key Short-term Issues

The following immediate priorities will be discussed with the incoming Minister of Commerce:

- › appointments to the Takeovers Panel and Securities Commission will need to be advanced
- › the status of the Commerce Commission (Information Sharing and Fees) Bill and supporting its introduction and progression in the House.

Legislation

A number of Bills that fall within Vote: Commerce have been carried over from the previous Parliament. Officials will want to discuss the status of these with the incoming Minister of Commerce. The Bills are:

- › Geographical Indications (Wine and Spirits) Registration Bill
- › Securities Legislation Bill (note that this Bill requires a Supplementary Order Paper)
- › Standards and Conformance Bill 2005.

Other Bills are at an advanced stage of development (policy decisions have been taken but the Bills have not been introduced). Their status will need to be discussed with the Minister at an early stage. These are:

- › Commerce Commission (Information Sharing and Fees) Bill
- › Insolvency Law Reform Bill
- › Limited Partnerships Bill
- › Credit Unions Bill
- › KiwiSaver legislation (this is being led by Treasury but we are drafting a substantial part of the Bill)
- › Copyright (New Technologies and Performers' Rights) Bill.

The Tariff Act 1988 will also need to be changed to implement the tariff decisions taken on the Trans-Pacific Strategic Economic Partnership Agreement (our free trade agreement with Chile, Singapore, and Brunei) and to other agreements once negotiations are concluded.

Policy development

Policy development is well advanced on a range of issues. Some of this relates to regulations or other work associated with the Bills noted above. In other cases, consultative documents on major policy are either in final stages of preparation, or submissions have been, or are about to be, analysed. The status of this work will need to be discussed with the Minister at an early stage. This work includes:

- › regulations implementing the Mutual Recognition Regime for Securities Offerings
- › regulations making technical amendments to the Takeovers Code
- › regulations required to implement the Securities Legislation Bill
- › policy associated with the Financial Reporting Review

- > policy associated with insolvency law
- > in principle policy decisions on the recommendations of the Financial Intermediaries Task Force
- > a review of the Memorandum of Understanding on Business Law Coordination between Australia and New Zealand
- > policy decisions on the review of domestic institutional arrangements
- > the Review of Financial Products and Providers
- > a review of the Temporary Safeguard Authorities Act to ensure that our legislation is fully effective in providing for urgent safeguard action that accords with WTO rules
- > a dumping investigation into oral liquid paracetamol from Ireland, with a decision required by the Minister of Commerce on whether antidumping duties should be imposed
- > consideration of antidumping duties on galvanised wire from Malaysia, with a decision required by the Minister of Commerce on whether these should be reassessed
- > a review of antidumping duties on plasterboard from Thailand that is likely to begin shortly, with a decision required in early 2006 on whether the duty should continue or be terminated
- > a minor amendment affecting dumping and subsidy investigation timeframes may be required to enhance the investigative process
- > policy advice on the status of the 2006 tariff review
- > policy advice associated with the change in the Regulatory Impact Analysis Unit's mandate of assessing for adequacy those regulatory impact statements that impact on business (Cabinet paper drafted for ministerial consideration)
- > policy advice on developing a consistent approach to choosing, designing and negotiating appropriate vehicles for trans-Tasman cooperation.

Appendices

Appendix 1: Crown entities and boards

Accounting Standards Review Board

This Board is constituted under the Financial Reporting Act 1993, which empowers the Board to approve financial reporting standards. Such standards have the force of law. The Act specifically recognises that the New Zealand Institute of Chartered Accountants are to develop standards, and this role is performed by the Financial Reporting Standards Board, which is an Institute committee. The Review and Standards Boards are both actively involved in international financial reporting harmonisation activities. The External Reporting Bill, if implemented, would increase the Board's functions and powers.

Commerce Commission

The Commission is a Crown entity established under the Commerce Act 1986. Its overriding purpose is to promote market efficiency by enforcing and fostering:

- › healthy competition amongst businesses
- › informed choice by consumers
- › sound economic regulation.

The Commission achieves this objective by providing public enforcement, adjudication and litigation services, providing reports to the Minister, and providing information to the public. The Commission provides these services in accordance with performance measures agreed with the Responsible Minister and Purchasing Ministers in an annual output agreement. The Responsible Minister may also formally communicate government statements of economic policy to the Commission from time to time, to which the Commission must have regard in exercising its statutory functions.

The Commerce Amendment Act 2001 introduced new prohibitions for abuse of market power and anticompetitive mergers that saw the Commission assume new regulatory and enforcement responsibilities. Other recent legislation has required the Commission to set up new enforcement regimes for the telecommunications, electricity, and dairy industries. Workloads in telecommunications and electricity, in particular, are developing rapidly.

The Commission is also responsible for enforcing the Fair Trading Act 1986 and the Credit Contracts and Consumer Finance Act 2003. The Fair Trading Act covers misleading and deceptive conduct and product safety and consumer information standards (in particular, the motor vehicle supplier information notice). The Credit Contracts and Consumer Finance Act has provisions relating to buy-backs and consumer credit contracts.

OWNERSHIP RELATIONSHIP WITH THE COMMERCE COMMISSION

The Minister of Commerce, as responsible Minister for the Commission, is responsible for its overall ownership performance. The Minister of Commerce is also the primary purchasing Minister for Commission activities under Vote: Commerce, in his/her own capacity and on behalf of the Ministers of Consumer

Affairs and Agriculture. The Minister of Commerce also purchases enforcement and adjudication activities under the Electricity Industry Reform Act 1998 on behalf of the Minister of Energy. The Ministers of Energy and Communications are also purchasing Ministers.

Securities Commission

The Securities Commission is a Crown entity established under the Securities Act 1978. Its role is to operate the disclosure-based regime for securities offerings, enforce securities trading law and to provide a supervisory role for securities and futures exchanges. Its activities in securities law include a range of enforcement responsibilities on offerings of securities and advertisements, granting of exemption applications and authorisations, supervising activities and providing advice to the Minister on securities exchanges, cooperating with overseas regulators and public education. It also has a limited law reform function and provides secretariat services to the Takeovers Panel.

The Securities Commission has only had the power to take insider trading actions from 2002, and it is currently undertaking some large profile insider trading cases. The Ministry is maintaining close contact as part of its purchase advice role, so that we can advise Ministers on how the Commission's litigation fund is coping with the demands of its new functions.

If the Securities Legislation Bill is enacted, the Commission will also assume a range of increased enforcement functions (for example, the ability to apply to the Court for civil pecuniary penalties and enforce market manipulation law) and will have a new role in relation to investment adviser disclosure.

Takeovers Panel

The Takeovers Panel is a Crown entity established by the Takeovers Act 1993. The Takeovers Code came into effect on 1 July 2001. The Panel is responsible for implementing the Code and carrying out the enforcement functions outlined in the Act. These functions include:

- › making amendments to the Code as the Panel thinks fit
- › for that purpose, monitoring practices relating to takeovers of companies subject to the Code
- › investigating any act or omission or practice for the purpose of exercising its enforcement powers under the Act
- › making determinations and orders and applications to the Court in accordance with the Act
- › promoting public understanding of the law and practice relating to takeovers.

The Panel will also have additional functions if the Securities Legislation Bill is enacted. This includes an increased role in enforcing market manipulation prohibitions relating to takeovers and some other additional enforcement powers.

Standards Council

The Standards Council is a Crown entity trading under the name of Standards New Zealand. Its primary functions are to develop and facilitate the use of standards with the objectives of:

- › improving the quality of goods and services
- › promoting standardisation
- › encouraging industrial development and trade
- › promoting safety, health and welfare.

Testing Laboratory Registration Council

The Testing Laboratory Registration Council is a user-funded Crown entity whose primary functions are to:

- › promote the development and maintenance of good laboratory practice in testing
- › establish and maintain a scheme for registering testing laboratories
- › promote the development and maintenance of good-quality assurance practice in the supply of goods and services.

Trans-Tasman Initiatives: The Joint Accreditation System of Australia and New Zealand

This body was established in 1991 by treaty between Australia and New Zealand. Its functions are to:

- › provide accreditation to conformity assessment bodies in New Zealand and Australia undertaking primarily quality management systems certification
- › assist exporters to third countries to get certificates of conformity internationally recognised.

Appendix 2: Legislation

Competition law

COMMERCE ACT 1986

The Commerce Act promotes economic efficiency and enhances consumer welfare by protecting the process of competition. It prohibits anticompetitive behaviour and mergers and acquisitions, and allows price control to be introduced where competition is limited or likely to be lessened.

As an independent body, the Commerce Commission is responsible for making certain quasi-judicial decisions, and enforcing the Act in the High Court. There is also a right of private action to the courts for most offences. The Minister, either directly or by Order in Council:

- › May transmit statements of government economic policy to the Commission. The Commission must have regard to these statements when exercising its statutory functions.
- › May impose price control or require the Commission to enquire into the need for price control on specified goods or services.
- › Appoints members of the Commission and may terminate appointments in limited circumstances.
- › Lays the Commission's annual report before Parliament.

Regulations can be made covering forms, fees and procedures.

Intellectual property

Intellectual property is a generic term for various rights the law (both statutory and non-statutory) accords to protect economic investment in creative effort. There are seven intellectual property statutes. Two provide rights automatically, while the other five grant or extend property rights by way of registration systems.

The statutory responsibility for registering industrial property (patents, trade marks, plant variety rights and designs) lies with Commissioners appointed under the State Sector Act. The Deputy Secretary of the Ministry's Business Services branch holds these positions. The Deputy Secretary will also become the Registrar of Registered Geographical Indications if the Geographical Indications (Wine and Spirits) Registration Bill is enacted.

COPYRIGHT ACT 1994

The Copyright Act is designed to promote investment in artistic creativity and intellectual effort by providing exclusive rights to the creators of original works. Copyright comes into existence automatically and applies to original creations such as literary, musical and artistic works, sound recordings, films, broadcasts and computer software. To encourage the use and dissemination of intellectual effort, the duration of copyright protection is limited, generally to 50 years after the creator's death or 50 years from the time the work is made or first publicly available.

The Copyright Tribunal determines disputes about the granting, entitlement to, and operation of, copyright licences. The Minister is responsible for recommending the appointment of members of the Tribunal.

PATENTS ACT 1953

The Patents Act is intended to promote innovation by creating incentives to invest in research and development in new products and processes. It does so by providing for a 20-year exclusive property right to be granted in exchange for disclosure of the invention. The Act also regulates the patent attorney profession.

Regulations may be made on such matters as fees, forms and procedures, and regulating the keeping of the registers of patents and patent attorneys.

TRADE MARKS ACT 2002

Trade marks provide consumers with low-cost information about products and their origins. The Trade Marks Act encourages manufacturers to invest in the quality, innovation and reputation of their brands by providing for an exclusive right to use a mark in relation to specified goods to be granted.

Regulations may be made covering such matters as fees, forms and procedures, and regulating the keeping of the register of trade marks.

DESIGNS ACT 1953

The Designs Act aims to promote innovation and creativity by creating incentives to develop designs for manufactured articles that have visual appeal. The Act provides copyright protection for up to 15 years.

Regulations may:

- › provide for excluding from registration articles that are primarily literary or artistic in character
- › be made on such matters as fees, forms and procedures, and regulating the keeping of the register of designs.

LAYOUT DESIGNS ACT 1994

The Layout Designs Act aims to promote innovation by automatically providing copyright-type protection to original layout designs for integrated circuits. The need to provide such protection arose mainly from the availability of peeling-off reverse-engineering techniques that can be used to reveal, layer by layer, the circuit layout used to produce the chip.

Orders in Council may designate convention countries to which reciprocal layout design protection will be afforded.

PLANT VARIETY RIGHTS ACT 1987

The Plant Variety Rights Act encourages investment in the development of new plant varieties by providing for proprietary rights to be granted to breeders and developers for 20 or 23 years. The grant of a plant variety right gives the exclusive right to sell and collect any royalties on seed or reproductive material of the variety.

The Commissioner of Plant Variety Rights has statutory responsibility for granting plant variety rights.

Regulations may be made covering such matters as fees, forms and procedures, and regulating the keeping of the register.

GEOGRAPHICAL INDICATIONS ACT 1994

The Geographical Indications Act provides consumers with accurate information about the geographic source of goods (for example, wine or olives) by providing a system for registration of geographical indications, within New Zealand and internationally, and prohibiting false indications of a geographic origin.

Insurance

Seven statutes regulate insurance markets. Their main purpose is to provide adequate safeguards for insurance policy holders in order to protect their investments from dishonesty or negligence, and to encourage reasonable risk taking. They also provide frameworks for adequate corporate governance and, in some cases, prudential supervision.

ACCIDENT INSURANCE ACT 1998

This Act provides for the regulation of residual private accident insurance once workplace accident insurance has been underwritten. The Ministry is responsible only for Part 8 of the Act, which establishes the regime for the registration and prudential supervision of accident insurers.

INSURANCE COMPANIES (DEPOSITS) ACT 1953

This Act requires general insurers to post a deposit in the form of approved securities with the Public Trust Office before they can undertake insurance business, including underwriting, in New Zealand. The Act also requires general insurers who have made a deposit with the Public Trust Office to file annual audited financial statements.

INSURANCE COMPANIES (RATINGS AND INSPECTIONS) ACT 1994

This Act applies to insurers, except captive insurers, carrying out general and fire insurance in New Zealand. The Act requires general insurers to obtain and maintain a rating of claims-paying ability from an approved ratings agency. The Registrar of Companies is responsible for approving ratings agencies on recommendation from the Insurance Council of New Zealand. Currently there are two approved ratings agencies: Standard & Poor's and AM Best.

The Act also provides the Registrar with inspection powers should he/she deem it necessary to assess further the insurers' ability to pay their outstanding claims.

LIFE INSURANCE ACT 1908

This Act provides for the regulation of life insurance companies. It applies to companies that provide products that include life insurance or annuities products, including the re-insurance of these products. This Ministry is responsible for Part 1 of the Act, which relates to life insurance companies. Part 2, which regulates life insurance policies, is administered by the Ministry of Justice.

Life insurance companies must forward their audited financial statements to the Ministry. The Government Actuary can, if he/she thinks fit, report to the Minister of Commerce. The Minister is required to present that information to Parliament annually.

The Minister also has the power to ask a court to appoint a judicial manager where he/she feels that a company is in difficulty and will be unable to meet its obligations to policyholders. The Minister has powers to prohibit the transaction of business by the entity for whatever period of time he/she thinks fit if non-compliance with the Act continues for more than three months.

SUPERANNUATION SCHEMES ACT 1989

This Act requires superannuation schemes to be registered with the Government Actuary. The Government Actuary will register the scheme provided the criteria are met and the documents stated in the Act are received.

The trustees of a superannuation scheme act as prudential supervisor and the Act imposes fiduciary duties on them. The Government Actuary is also responsible for monitoring the superannuation market and enforcing the Act.

MUTUAL INSURANCE ACT 1955

This Act provides for a mutual association wishing to provide insurance to its members to be established and regulated. This legislation is effectively redundant as no associations are registered under this Act.

MARINE INSURANCE ACT 1908

This Act regulates insurance contracts specific to marine losses.

Financial markets

The purposes of the statutes listed under this heading are to provide for effective information disclosure, with the aim of promoting investors' effective decision-making and capital markets' efficient functioning.

INVESTMENT ADVISORS DISCLOSURE ACT 1996

This Act regulates the provision of investment advice by requiring those who give advice to make certain disclosures. These disclosures are divided into two categories:

- › **Mandatory disclosure:** information that must be provided to everyone to whom advice is being given. It includes such things as convictions for dishonesty, bankruptcy, and prohibitions from taking part in managing a business and money handling procedures.
- › **Request disclosure:** investors may request disclosure of such things as qualifications and experience, details of remuneration and any advantage the advisor may gain from giving advice.

The failure to comply may result in the advisor being ordered to cease giving advice, a court injunction, or being ordered to disclose information in any civil action taken against the advisor.

SECURITIES ACT 1978

This Act regulates the offering of securities to the public. It also establishes the Securities Commission.

The Act outlines disclosure requirements for issuers wishing to offer securities to the public. These requirements relate to equity, debt and participatory securities, as well as interests in superannuation schemes, unit trusts and contributory mortgages. Also, when offering securities, issuers must prepare a registered prospectus and provide investors with an investment statement. An investment statement is intended to provide the prudent but non-expert investor with certain key information to assist them in making investment decisions.

The Minister has responsibility for recommending to the Governor-General the appointment of members to the Securities Commission.

SECURITIES MARKETS ACT 1988

This Act prohibits insider trading and contains disclosure requirements for substantial security holders and directors and officers of public issuers, and a continuous disclosure regime for public issuers. The Act establishes a co-regulatory regime for securities exchanges where exchanges act as the front line regulators of their markets, with the Securities Commission having a supervisory role.

The Act also regulates the market for dealing in futures contracts and gives the Securities Commission additional powers to authorise futures exchanges.

SHAREBROKERS ACT 1908

This Act provides for the registration of stock exchanges in New Zealand. (There has only been one stock exchange in New Zealand since 1981.) It also provides for District Court judges to licence sharebrokers. The Minister of Commerce is responsible for advising the Governor-General on certifying rules by Order in Council.

TAKEOVERS ACT 1993

This Act establishes the Takeovers Panel and outlines the framework for devising, recommending and enforcing the Takeovers Code. The Code came into force in 2001. It applies to companies that have a listing agreement with any registered stock exchange, and companies with 50 or more shareholders plus assets of \$20 million or more. The Governor-General appoints members of the Panel on the recommendation of the Minister of Commerce.

UNIT TRUSTS ACT 1960

This Act regulates how unit trusts operate. In particular, it specifies managers' and trustees' qualifications and roles, and unit trusts' specific reporting requirements. For instance, in order for a unit trust to be promoted to the public, a prospectus must be published, a bond must be paid and the Registrar of Companies must have approved the trust deed.

The supervisory authority for unit trusts lies with the Minister of Commerce through the Registrar of Companies. The Minister's approval is required if an

entity other than a trustee corporation is to act as trustee. Requests for approval of this nature are rarely made.

Corporate governance

The purpose of the corporate governance statutes is to define the relationships between directors, managers and owners of businesses in a way that lowers contracting costs and promotes effective accountability within firms.

COMPANIES ACT 1993

This Act describes the basic requirements for incorporating, organising and operating companies. It defines the relationships between companies and their directors, shareholders and creditors, sets out the duties of directors and provides for the protection of shareholders and creditors against the misuse of management powers. It provides procedures for realising and distributing the assets of insolvent companies. It also outlines the powers and duties of the Registrar of Companies, which include registering and inspecting documents.

CO-OPERATIVE COMPANIES ACT 1996

This Act provides a mechanism for shareholders to carry on business on a mutual basis. It provides for cooperative companies to be registered and regulates the relationship between cooperative companies and their shareholders. It also modifies the application of the Companies Act 1993 to co-operative companies.

FINANCIAL REPORTING ACT 1993

This Act requires issuers of securities to file financial statements prepared in accordance with generally accepted accounting practice and to give a true and fair view of their affairs, prescribes financial reporting requirements for other entities, and gives legal force to accounting standards approved by the Accounting Standards Review Board. The Ministry administers the register and the Minister recommends to the Governor-General the appointment of members to the Board.

PARTNERSHIP ACT 1908

This Act defines partnership relationships and sets out the rules for determining when a partnership exists. It also regulates the relationship of partners to one another and to third parties, and provides for the dissolution of partnerships.

BUILDING SOCIETIES ACT 1965

This Act sets out the purposes, functions and general powers of building societies. It provides for them to be established and incorporated and regulates the relationship between them and their members. The Act also provides for building societies' administration and provides a procedure for their dissolution.

FRIENDLY SOCIETIES AND CREDIT UNIONS ACT 1982

This Act establishes the Registrar of Friendly Societies and Credit Unions and assigns functions and powers to the Registrar and Government Actuary. It provides for the registration of Friendly and other Societies (including working

men's clubs and benevolent societies). It also provides for credit unions' registration and prudential control.

INCORPORATED SOCIETIES ACT 1908

This Act makes provision for the incorporation of societies that are not established for the purpose of pecuniary gain. It also sets out the powers of such societies, regulates the relationship between societies and their members, and provides a process for their dissolution.

INDUSTRIAL AND PROVIDENT SOCIETIES ACT 1908

This Act provides for industrial and provident societies to be incorporated. It also sets out the powers of industrial and provident societies, regulates the relationship between them and their members, and provides a process for their dissolution.

Insolvency statutes

The insolvency statutes cover both bankruptcy for individuals, which can arise for business or consumer-related reasons, and corporate insolvency. They aim to balance the interests of creditors and debtors and provide for orderly insolvency processes. As noted under the corporate governance heading, the Companies Act 1993 is the main vehicle for corporate insolvency.

INSOLVENCY ACT 1967

This Act describes the criteria and processes for entering into and being discharged from bankruptcy, the obligations imposed on bankrupts and the disabilities associated with bankruptcy. It sets out the jurisdiction and powers of the High Court and the Official Assignee, who has responsibility for administering the affairs of people who become bankrupt.

RECEIVERSHIPS ACT 1993

This Act codifies the common law in relation to receivers. It sets out what qualifications they must have, the circumstances in which receivers may be appointed, their powers, duties and liabilities, and provides for the High Court to supervise their activities.

CORPORATIONS (INVESTIGATION AND MANAGEMENT) ACT 1989

This Act allows the Registrar of Companies to obtain information and investigate the affairs of a corporation to ascertain whether it is in danger of failing. If necessary, a statutory manager may be appointed to run the company. It also provides limited scope for the Governor-General, acting on advice from the Minister of Commerce, to place corporations under statutory management. However, statutory management can only be invoked on the Securities Commission's recommendation and only where the corporate collapse is caused by fraud or recklessness and where conventional procedures would be ineffective.

Other business law statutes

PERSONAL PROPERTY SECURITIES ACT 1999

This Act came into force on 1 May 2002. It provides uniform rules in relation to the giving and taking of security interests in all forms of personal property other than land. More specifically, it:

- › provides rules for determining disputes between those with competing interests in personal property
- › establishes a centralised, national personal property securities register
- › sets out default rules for the enforcement of security interests in personal property other than consumer goods.

MERCANTILE LAW ACT 1908

This Act consolidates the law relating to mercantile trade and commerce. It defines mercantile agents, who are agents having authority to sell, consign, buy or raise money on the security of goods.

CARRIAGE OF GOODS ACT 1979

This Act regulates the liability of carriers when carrying goods on behalf of others and defines the basic rights of carriers. It also implies a warranty on the part of the contracting party that the goods are fit to be carried and stored, and that all enactments relating to the consignment for the carriage of goods have been complied with.

SALE OF GOODS ACT 1908

This Act consolidates the law relating to the sale of goods to the public. It outlines the basic requirements of contracts for selling goods and the conditions and warranties associated with selling them. The respective rights and remedies of buyers and sellers are also covered by this Act.

SALE OF GOODS (UNITED NATIONS CONVENTION) ACT 1994

This Act gives the United Nations Convention on Contracts for the International Sale of Goods the force of law in New Zealand. The Act establishes the UN Convention in this area as a code in New Zealand.

Trade remedies

DUMPING AND COUNTERVAILING DUTIES ACT 1988

The Dumping and Countervailing Duties Act protects New Zealand industry from injury caused by dumped or subsidised imports. It allows duties to be imposed on goods sold in New Zealand at less than the normal price in the country of export, or subsidised by an overseas government, if the dumping or subsidy is causing injury to an industry in New Zealand or a third country.

The Chief Executive of the Ministry of Economic Development is responsible for carrying out investigations. The Minister:

- › makes final determinations on whether there is dumping or subsidisation causing injury

- › may impose or terminate antidumping or countervailing duties
- › may determine a new rate or amount of antidumping or countervailing duty
- › may require a refund of antidumping or countervailing duties in certain circumstances
- › terminates investigations in certain circumstances.

TEMPORARY SAFEGUARD AUTHORITIES ACT 1987

This Act protects New Zealand industry from extraordinary or unforeseen circumstances where imports increase to such an extent and in such a way as to cause or threaten serious injury to a domestic industry.

Temporary Safeguard Authorities are independent bodies that investigate requests for safeguard actions. A Temporary Safeguard Authority carries out the inquiry and reports its findings to the Minister on whether urgent action is needed to protect the industry, and the nature of the protection considered appropriate. The Minister:

- › appoints suitable people to act as temporary safeguard authorities and requests them to undertake inquiries
- › lays requests for safeguard actions in the House and publishes them in the *Gazette*
- › may cause a statement of government policy to be transmitted to the Authority.

This Act is currently being reviewed to ensure it is fully effective in providing for urgent safeguard action in accordance with WTO rules.

Tariff policy

TARIFF ACT 1988

The Tariff Act protects goods made in New Zealand by providing authority to levy, collect and pay import duties in accordance with rates specified in the Tariff. After a six-year tariff freeze, tariff rates will begin reducing again from 1 July 2006. Following a comprehensive tariff review in 2003 a unilateral tariff reduction programme has been set down for the period 1 July 2006 to 1 July 2009, at which stage tariffs on clothing, footwear and carpet will be 10%, and tariffs on all other goods, which are still dutiable, will be at 5%. Around 95% of New Zealand's imports by value are already duty-free.

Tariff nomenclatures and rates appear in Part I of the Tariff (The Standard Tariff). Part I can be changed by Order in Council. Concessions appear in Part II of the Tariff. The Minister has the discretion to approve, amend or withdraw concessions in accordance with Part II. The Minister also has the power to revoke, suspend or amend Part I Tariff statistical keys.

There are regulation-making powers in relation to certain aspects of duty drawbacks, and fee-setting for concessions.

IMPORTS AND EXPORTS (RESTRICTIONS) ACT 1988

The Imports and Exports (Restrictions) Act provides Orders in Council to prohibit imports and exports that would be contrary to the public interest.

The Minister has the power, consistent with any conditional prohibition order, to require an import or export licence or permit to be presented before goods can enter or leave New Zealand. Regulations can be made as may be necessary or expedient for giving effect to, or administering, the Act. Current regulations implement controls that give effect to New Zealand's international obligations under the Basel, Waigani, Rotterdam and Stockholm conventions.

Standards and conformance**STANDARDS ACT 1988**

This Act provides for the continuation of the Standards Council. The Council is to have no more than 12 members, of whom not more than eight are ministerial appointments. A variety of professional organisations and associations are specifically identified in this Act as nominating bodies for these appointments (for example, Institution of Professional Engineers New Zealand, Federated Farmers, Chambers of Commerce, etc). The Standards Council is a Crown entity and has statutory responsibility, through its operational arm, Standards New Zealand, for overseeing the development and adoption of standards and standards-related products. It also promotes, encourages and facilitates the use of standards in New Zealand.

TESTING LABORATORY REGISTRATION ACT 1972

The Testing Laboratory Registration Act 1972 provides for the Testing Laboratory Registration Council, a not-for-profit Crown entity with appointed representatives, to be established. The Council promotes good quality assurance and through its operational arm, International Accreditation New Zealand, accredits conformity assessment bodies such as testing and calibration laboratories and inspection bodies.

The Standards and Conformance Bill 2005, introduced in Parliament in June 2005, amends both of these Acts in order to clarify and adjust some of the functions of the Standards Council and the Testing Laboratory Registration Council.

TRANS-TASMAN MUTUAL RECOGNITION ACT 1997

The Trans-Tasman Mutual Recognition Act provides for the recognition in New Zealand of regulatory standards adopted in Australia regarding goods and occupations.

Repeal Acts

- > The Companies Act Repeal Act 1993
- > The Cornish Companies Management Repeal Act 1994
- > The Clerk of Works Act Repeal Act 1992
- > The Quantity Surveyors Act Repeal Act 1992.

Appendix 3: Key stakeholders

The following people may write or seek an early appointment with the Minister over the coming weeks:

Accounting Standards Review Board

Chair: Warwick Hunt

Auckland Chamber of Commerce

Chief Executive: Michael Barnett

Business New Zealand

Chief Executive: Phil O'Reilly

Commerce Commission

Chair: Paula Rebstock

Employers' and Manufacturers' Association (Northern)

Chief Executive: Alasdair Thompson

Key Manager: Bruce Goldsworthy

Financial Services Federation

Chair: Angus Bradshaw

Executive Director: Justin Kerr

Fisher & Paykel Appliances Ltd

Chief Executive: John Bongard

Health Funds Association of New Zealand

Executive Director: Andrea Pettett

Institute of Chartered Accountants

President: Roy Tiffin

Chief Executive: Garry Muriwai

Institute of Directors

President: Rick Bettle

Chief Executive: Nicki Crawford

Insurance Council

Chair: Chris Ryan

International Accreditation New Zealand

Chief Executive: Llew Richards

Investment Savings and Insurance Association of New Zealand

Chief Executive: Vance Arkinstall

Joint Accreditation System of Australia and New Zealand

Chief Executive: Tony Craven

New Zealand Association of Credit Unions

Executive Director: Doug McLaren

New Zealand Law Society
President: Chris Darlow
Executive Director: Alan Ritchie

New Zealand Stock Exchange
President: Simon Allen
Chief Executive: Mark Weldon

Pacific Steel
Managing Director: Alan Pearson

Plastics New Zealand
Chief Executive: Robin Martin

Recording Industry Association of New Zealand
Chief Executive: Campbell Smith

Securities Commission
Chair: Jane Diplock

Standards Council
Chair: Richard Westlake

Takeovers Panel
Chair: John King

Testing Laboratory Registration Council
Chair: Geoff Page

Trustee Corporations Association of New Zealand
Chair: James Douglas
Executive Director: Bob Moffat

Appendix 4: Ministry of Economic Development policy, registry and enforcement responsibilities

Subject	Policy Advice	Registers	Enforcement/ Adjudication
Competition	RCPB	N/A	Commerce Commission and private enforcement
Financial Markets	RCPB	N/A	Securities Commission, Takeovers Panel, New Zealand Exchange and private enforcement
Corporate Governance	RCPB	Companies Office, BSB	Companies Office/NEU and private enforcement
Personal Property Securities	RCPB	Companies Office, BSB	Private enforcement
Insolvency	RCPB	ITS	ITS/NEU and private enforcement
Intellectual Property	RCPB	IPONZ	Private enforcement and Copyright Tribunal
Trade Remedies	RCPB	RCPB	RCPB, Minister of Commerce and Temporary Safeguards Authority
Tariff Policy	RCPB	NZ Customs Service	NZ Customs Service, private enforcement and RCPB
Standards and Conformance, Government Purchasing etc	RCPB	N/A	RCPB – policy compliance monitoring and informal investigation of supplier complaints
Quality of Regulation	RCPB	N/A	RCPB
Environmental Legislation	RNB	N/A	RNB

BSB Business Services Branch, Ministry of Economic Development

IPONZ Intellectual Property Office of New Zealand, Business Services Branch, Ministry of Economic Development

ITS Insolvency and Trustee Service, Business Services Branch

NEU National Enforcement Unit, Business Services Branch

RCPB Regulatory and Competition Policy Branch, Ministry of Economic Development

RNB Resources and Networks Branch, Ministry of Economic Development.

Appendix 5: Glossary of terms

ANZCERTA (also called CER)	Australia New Zealand Closer Economic Relations Trade Agreement
ANZGPA	Australia New Zealand Government Procurement Agreement
APEC	Asia-Pacific Economic Cooperation
APEC SCSC	APEC Subcommittee on Standards and Conformance
ASEAN	Association of Southeast Asian Nations
ASRB	Accounting Standards Review Board
BCCS	Business Compliance Cost Statement
BSB	Business Services Branch
CCCFA	Credit Contracts and Consumer Finance Act 2003
CEP	Closer Economic Partnership
CTC	Change of Tariff Classification
FITF	Financial Intermediaries Task Force
FTA	Free Trade Agreement
HSNO	Hazardous Substances and New Organisms Act 1996
IANZ	International Accreditation New Zealand
ICN	Industry Capability Network
ICT	Information and Communication Technology
IP	Intellectual Property
IPONZ	Intellectual Property Office of New Zealand
IRD	Inland Revenue Department
ITS	Insolvency and Trustee Service
JAS-ANZ	Joint Accreditation System of Australia and New Zealand
MED	Ministry of Economic Development
MFAT	Ministry of Foreign Affairs and Trade
MOU	Memorandum of Understanding
MRA	Mutual Recognition Arrangement
NZSX	New Zealand Stock Exchange
OECD	Organisation for Economic Co-operation and Development
PPSR	Personal Property Securities Register

PVR	Plant Variety Rights
RCPB	Regulatory and Competition Policy Branch
RFPP	Review of Financial Products and Providers
RIA	Regulatory Impact Analysis
RIAU	Regulatory Impact Analysis Unit
RIS	Regulatory Impact Statement
RMA	Resource Management Act 1991
RNB	Resources and Networks Branch
ROO	Rules of Origin
RVC	Regional Value Content
SEM	Single Economic Market
SOI	Statement of Intent
SOP	Supplementary Order Paper
TBTs	Technical Barriers to Trade
TELARC	Testing Laboratory Registration Council
TPSEP (also called P4)	Trans-Pacific Strategic Economic Partnership Agreement (New Zealand's trade agreement with Chile, Brunei and Singapore)
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TSA	Temporary Safeguard Authority
TTMRA	Trans-Tasman Mutual Recognition Arrangement
UNCITRAL	United Nations Commission on International Trade Law
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

