

DRAFT
SUBJECT TO LEGAL REVIEW FOR ACCURACY, CLARITY, AND CONSISTENCY
MARCH 1, 2004

The Honorable Mark Vaile
Minister for Trade
Parliament House
Canberra ACT 2660

Dear Minister Vaile:

I have the honor to refer to Chapter Ten (Cross-Border Trade in Services) and Chapter Eleven (Investment) of the United States-Australia Free Trade Agreement (the "Agreement") of this date, and to the following understandings reached by the United Australia during the negotiations leading to the Agreement:

- (1) During the negotiations, the delegations of both Parties discussed Article 10.2 (National Treatment) and reached agreement that the treatment to be accorded by a Party under paragraph 1 of Article 10.2 means, with respect to a regional level of government, treatment no less favorable than the treatment accorded, in like circumstances, by that regional level of government to service suppliers of the Party of which it forms a part; and
- (2) During the negotiations, the delegations of both Parties discussed Article 11.3 (National Treatment) of Chapter Eleven and reached agreement that the treatment to be accorded by a Party under paragraphs 1 and 2 of Article 11.3 means, with respect to a regional level of government, treatment no less favorable than the treatment accorded, in like circumstances, by that regional level of government to investors, and to investments of investors, of the Party of which it forms a part.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two governments, to enter into force on the entry into force of the Agreement.

Sincerely,

Robert B. Zoellick

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MARCH 1, 2004

The Honorable Robert B. Zoellick
United States Trade Representative
600 17th Street, NW
Washington, DC 20508

Dear Ambassador Zoellick:

I have the honor to confirm receipt of your letter of this date, which reads as follows:

“I have the honor to refer to Chapter Ten (Cross-Border Trade in Services a and Chapter Eleven (Investment) of the United States-Australia Free Trade Agreement (the “Agreement”) of this date, and to the following understandings reached by the United Australia during the negotiations leading to the Agreement:

- (1) During the negotiations, the delegations of both Parties discussed Article 10.2 (National Treatment) and reached agreement that the treatment to be accorded by a Party under paragraph 1 of Article 10.2 means, with respect to a regional level of government, treatment no less favorable than the treatment accorded, in like circumstances, by that regional level of government to service suppliers of the Party of which it forms a part; and
- (2) During the negotiations, the delegations of both Parties discussed Article 11.3 (National Treatment) of Chapter Eleven and reached agreement that the treatment to be accorded by a Party under paragraphs 1 and 2 of Article 11.3 means, with respect to a regional level of government, treatment no less favorable than the treatment accorded, in like circumstances, by that regional level of government to investors, and to investments of investors, of the Party of which it forms a part.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two governments, to enter into force on the entry into force of the Agreement.

Sincerely,

Robert B. Zoellick”

I have the honor to confirm that your letter and this letter in reply constitute an agreement between our two governments, to enter into force on the entry into force of the Free Trade Agreement.

Sincerely,
Mark Vaile

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MARCH 1, 2004

Minister of Foreign Affairs and International
Trade