



18 May 2004

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

Dear Ambassador Zoellick

In connection with the signing on this date of the Australia-United States Free Trade Agreement (the "Agreement"), I have the honour to confirm the following understanding reached by the Governments of Australia and the United States regarding Chapter Fifteen (Government Procurement).

For the purposes of Article 15.7.1 and 15.7.2, Australia may require, as a condition for participation in procurement of construction services, compliance with the National Code of Practice for the Construction Industry and related implementation guidelines at the central and regional government levels.

Further, in respect of Article 15.11, in the case of Australia, the Federal Court of Australia and the Supreme Courts of the States and Territories are impartial authorities for the purposes of Article 15.11; and the remedies available in, and the procedures applicable to, such courts, satisfy the requirements of that Article.

I have the honour to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an integral part of the Agreement.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark Vaile'.

Mark Vaile
Minister for Trade

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

May 18, 2004

The Honorable Mark Vaile MP
Minister for Trade
Parliament House
Canberra ACT 2600

Dear Minister Vaile:

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

“In connection with the signing on this date of the Australia-United States Free Trade Agreement (the “Agreement”), I have the honour to confirm the following understanding reached by the Governments of Australia and the United States regarding Chapter Fifteen (Government Procurement).

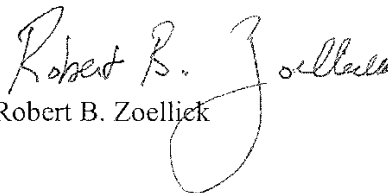
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Further, in respect of Article 15.11, in the case of Australia, the Federal Court of Australia and the Supreme Courts of the States and Territories are impartial authorities for the purposes of Article 15.11; and the remedies available in, and the procedures applicable to, such courts, satisfy the requirements of that Article.

I have the honour to propose that this letter and your letter in reply confirming that your Government shares this understanding in shall constitute an integral part of the Agreement.”

I have the further honor to confirm that my Government shares this understanding and that your letter and this reply shall constitute an integral part of the United States-Australia Free Trade Agreement.

Sincerely,


Robert B. Zoellick