

SIDE LETTER CONCERNING CLARIFICATION OF AUSTRALIAN NON-CONFORMING MEASURES AT REGIONAL LEVEL OF GOVERNMENT

Rt Hon John Key
Prime Minister
New Zealand

Dear Prime Minister,

I have the honour to refer to the *Protocol on Investment to the Australia-New Zealand Closer Economic Relations Trade Agreement* ("Protocol") and to the discussions that have taken place between representatives of our two governments regarding Articles 5 (National Treatment), 6 (Most Favoured Nation Treatment), 7 (Performance Requirements), and 8 (Senior Management and Boards of Directors) and the non-conforming measures set out in Australia's schedules to Annex I and II of the Protocol.

Recalling the breadth and depth of economic integration under the Australia - New Zealand closer economic relationship, being built on through the Protocol, and for the purposes of clarifying Australia's commitments under the Protocol, I have the honour to propose that Australia shall, in time for the first meeting of the Parties under Article 26 (Review) of the Protocol, provide to New Zealand revised schedules to Annex I and Annex II, incorporating all known non-conforming measures at the central and regional levels of government, including those to which reservation I-AUS-1 of Australia's Schedule to Annex I refers.

Australia reserves the right to maintain and to add to its revised schedule to Annex 1 any non-conforming measure at the regional level of government that existed at 1 January 2005, but is not listed in this revised schedule.

If the foregoing is acceptable to New Zealand, I have the honour to propose that this letter and your reply to that effect shall constitute an integral part of the Protocol. Following the receipt of Australia's revised schedules, New Zealand will confirm its acceptance thereof and the Parties shall amend the Protocol to incorporate the revised schedules through an exchange of letters.

Yours sincerely

Julia Gillard

The Hon Julia Gillard
Prime Minister
Australia

Dear Prime Minister,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

"I have the honour to refer to the *Protocol on Investment to the Australia-New Zealand Closer Economic Relations Trade Agreement* ("Protocol") and to the discussions that have taken place between representatives of our two governments regarding Articles 5 (National Treatment), 6 (Most Favoured Nation Treatment), 7 (Performance Requirements), and 8 (Senior Management and Boards of Directors) and the non-conforming measures set out in Australia's schedules to Annex I and II of the Protocol.

Recalling the breadth and depth of economic integration under the Australia - New Zealand closer economic relationship, being built on through the Protocol, and for the purposes of clarifying Australia's commitments under the Protocol, I have the honour to propose that Australia shall, in time for the first meeting of the Parties under Article 26 (Review) of the Protocol, provide to New Zealand revised schedules to Annex I and Annex II, incorporating all known non-conforming measures at the central and regional levels of government, including those to which reservation I-AUS-1 of Australia's Schedule to Annex I refers.

Australia reserves the right to maintain and to add to its revised schedule to Annex 1 any non-conforming measure at the regional level of government that existed at 1 January 2005, but is not listed in this revised schedule.

If the foregoing is acceptable to New Zealand, I have the honour to propose that this letter and your reply to that effect shall constitute an integral part of the Protocol. Following the receipt of Australia's revised schedules, New Zealand will confirm its acceptance thereof and the Parties shall amend the Protocol to incorporate the revised schedules through an exchange of letters."

I have the further honour to confirm that the foregoing is acceptable to New Zealand and that your letter and this letter in reply shall constitute an integral part of the Protocol.

Yours sincerely

John Key