

Cha-am, Petchaburi, Thailand
27 February 2009

Hon Simon Crean
Minister for Trade
Australia

Dear Minister Crean

I have the honour to refer to the Australia New Zealand Closer Economic Relations Trade Agreement done at Canberra on 28 March 1983 and its related agreements and understandings (CER) and the Agreement Establishing the ASEAN - Australia - New Zealand Free Trade Area (AANZFTA) done at Cha-am on 27 February 2009. I have the further honour to confirm the following undertakings made by the Governments of New Zealand and Australia during the course of the negotiations on the AANZFTA:

New Zealand and Australia agree that the following provisions of the AANZFTA shall not create any rights or obligations between New Zealand and Australia:

- Chapter 7 (Safeguard Measures);
- Chapter 11 (Investment); and
- Chapter 17 (Consultations and Dispute Settlement).

New Zealand and Australia also agree that the following provisions of the AANZFTA shall create rights and obligations between New Zealand and Australia:

- Chapter 1 (Establishment of Free Trade Area, Objectives and General Definitions)
- Chapter 2 (Trade in Goods) together with Annex 1 (Schedules of Tariff Commitments);
- Chapter 3 (Rules of Origin) together with its Annex on Operational Certification Procedures and Annex 2 (Product Specific Rules); and
- Chapter 15 (General Provisions and Exceptions), which shall only apply between New Zealand and Australia to the extent that the AANZFTA creates rights and obligations between New Zealand and Australia, as modified by this agreement.

New Zealand and Australia further agree to consider the merits of applying provisions of the AANZFTA not mentioned above as between New Zealand and Australia. Pending any agreement on such application, only those provisions of the AANZFTA as specified in the paragraph immediately above shall create rights and obligations between New Zealand and Australia.

New Zealand and Australia shall, at the written request of either, promptly enter into consultations with a view to seeking an equitable and mutually satisfactory solution if an issue arises in regard to any rights and obligations applying between New Zealand and Australia under the AANZFTA, as modified by this agreement.

Nothing in the AANZFTA shall be construed to derogate from any rights or obligations of New Zealand or Australia under the CER.

I have the further honour to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments on the application between New Zealand and Australia of rights and obligations contained in the AANZFTA, which shall enter into force on the date on which the AANZFTA enters into force.

Yours sincerely

Hon Tim Groser
Minister of Trade
New Zealand

Cha-am, Petchaburi, Thailand
27 February 2009

Hon Tim Groser
Minister of Trade
New Zealand

Dear Minister Groser

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

"I have the honour to refer to the Australia New Zealand Closer Economic Relations Trade Agreement done at Canberra on 28 March 1983 and its related agreements and understandings (CER) and the Agreement Establishing the ASEAN - Australia - New Zealand Free Trade Area (AANZFTA) done at Cha-am on 27 February 2009. I have the further honour to confirm the following undertakings made by the Governments of New Zealand and Australia during the course of the negotiations on the AANZFTA:

New Zealand and Australia agree that the following provisions of the AANZFTA shall not create any rights or obligations between New Zealand and Australia:

- Chapter 7 (Safeguard Measures);
- Chapter 11 (Investment); and
- Chapter 17 (Consultations and Dispute Settlement).

New Zealand and Australia also agree that the following provisions of the AANZFTA shall create rights and obligations between New Zealand and Australia:

- Chapter 1 (Establishment of Free Trade Area, Objectives and General Definitions)
- Chapter 2 (Trade in Goods) together with Annex 1 (Schedules of Tariff Commitments);
- Chapter 3 (Rules of Origin) together with its Annex on Operational Certification Procedures and Annex 2 (Product Specific Rules); and
- Chapter 15 (General Provisions and Exceptions), which shall only apply between New Zealand and Australia to the extent that the AANZFTA creates rights and obligations between New Zealand and Australia, as modified by this agreement.

New Zealand and Australia further agree to consider the merits of applying provisions of the AANZFTA not mentioned above as between New Zealand and Australia. Pending any agreement on such application, only those provisions of the AANZFTA as specified in the paragraph immediately above shall create rights and obligations between New Zealand and Australia.

New Zealand and Australia shall, at the written request of either, promptly enter into consultations with a view to seeking an equitable and mutually satisfactory solution if an issue arises in regard to any rights and obligations applying between New Zealand and Australia under the AANZFTA, as modified by this agreement.

Nothing in the AANZFTA shall be construed to derogate from any rights or obligations of New Zealand or Australia under the CER.

I have the further honour to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments on the application between New Zealand and Australia of rights and obligations contained in the AANZFTA, which shall enter into force on the date on which the AANZFTA enters into force.”

I have the further honour to confirm that the above reflects the undertakings made by the Governments of Australia and New Zealand during the course of the negotiations on the AANZFTA and that your letter and this letter in reply shall constitute an agreement between Australia and New Zealand.

Yours sincerely

Hon Simon Crean
Minister for Trade
Australia