

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

Exchange of Letters regarding gambling, alcohol, firearms and tobacco

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

Dear Minister Vaile

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

- (1) During the negotiations, the delegations of both Parties discussed the objectives of protecting public morals, preventing fraud, and deterring crime that underlie much regulation of gambling and betting services at the central or regional levels. I have the honor to confirm the shared understanding of the Parties that such regulations will typically fall within the exceptions provided under subparagraphs (a) and (c)(i) of Article XIV of the GATS, as incorporated in the Agreement. I have the further honour to confirm the shared understanding of the Parties that enterprises supplying gambling and betting services established outside of a jurisdiction are typically not in similar circumstances with suppliers of gambling and betting services within that jurisdiction.
- (2) During the negotiations, the Parties discussed the objectives behind regulation of retail trade services for tobacco products, alcoholic beverages, or firearms. I have the honor to confirm the shared understanding of the Parties that such regulations will typically fall within the exceptions provided under subparagraphs (a), (b), and (c)(iii) of Article XIV of the GATS, as incorporated in the Agreement.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two governments, and that this letter be treated as an integral part of the Agreement.

Sincerely

Robert B. Zoellick

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

The Honourable Robert B. Zoellick
United States Trade Representative
Washington, D.C. 20508

Dear Ambassador Zoellick

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

Dear Minister Vaile

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

- (1) During the negotiations, the delegations of both Parties discussed the objectives of protecting public morals, preventing fraud, and deterring crime that underlie much regulation of gambling and betting services at the central or regional levels. I have the honor to confirm the shared understanding of the Parties that such regulations will typically fall within the exceptions provided under subparagraphs (a) and (c)(i) of Article XIV of the GATS, as incorporated in the Agreement. I have the further honour to confirm the shared understanding of the Parties that enterprises supplying gambling and betting services established outside of a jurisdiction are typically not in similar circumstances with suppliers of gambling and betting services within that jurisdiction.
- (2) During the negotiations, the Parties discussed the objectives behind regulation of retail trade services for tobacco products, alcoholic beverages, or firearms. I have the honor to confirm the shared understanding of the Parties that such regulations will typically fall within the exceptions provided under subparagraphs (a), (b), and (c)(iii) of Article XIV of the GATS, as incorporated in the Agreement.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two governments, and that this letter be treated as an integral part of the Agreement.

Sincerely

Robert B. Zoellick

I have the honour to confirm that my government shares these understandings and that your letter and this reply constitute an integral part of the Agreement.

Sincerely

Mark Vaile