

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

Dear Ambassador Zoellick:

I have the honour to refer to the Australia-United States Free Trade Agreement (the “Agreement”) signed this date, and to discussions during the negotiation of Chapter Fifteen (Government Procurement). As a result of those discussions, it is understood that 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 15.13 (Domestic Review of Supply Challenges), 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 15.13; and the remedies available in, and the procedures applicable to, such courts, satisfy the requirements of that Article.

I would be grateful if you would confirm that your government shares these understandings and have the honour to propose that this letter and your confirming reply be treated as an integral part of the Agreement.

Sincerely,

Mark Vaile
Minister for Trade

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

Dear Minister Vaile:

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

“Dear Ambassador Zoellick:

I have the honour to refer to the Australia-United States Free Trade Agreement (the “Agreement”) signed this date, and to discussions during the negotiation of Chapter Fifteen (Government Procurement). As a result of those discussions, it is understood that 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 15.13 (Domestic Review of Supply Challenges), 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 15.13; and the remedies available in, and the procedures applicable to, such courts satisfy the requirements of that Article.

I would be grateful if you would confirm that your government shares these understandings and have the honour to propose that this letter and your confirming reply be treated as an integral part of the Agreement.

Sincerely,

Mark Vaile”

I have the honor to confirm that my government shares these understandings and that these letters are an integral part of the Agreement.

Sincerely,

Robert B. Zoellick

