

31 August 2023

The Hon Tim Watts MP  
Assistant Minister for Foreign Affairs  
Australia

Dear Minister Watts

I have the honour to refer to the Agreement Establishing the ASEAN - Australia - New Zealand Free Trade Area (AANZFTA) done at Cha-am, Phetchaburi on 27 February 2009 as amended by the First Protocol to Amend the AANZFTA which entered into force on 1 October 2015 (First Protocol) and the Second Protocol to Amend the AANZFTA signed by New Zealand and Australia at Semarang on 21 August 2023 (Second Protocol).

I have the further honour to confirm, for greater certainty, that the letters exchanged between Australia and New Zealand dated 27 February 2009 (**Letters-Treaty**) are equally valid and applicable with respect to AANZFTA as amended by the First Protocol and Second Protocol *mutatis mutandis*.

The Letters-Treaty 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, Phetchaburi 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 propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments on the application between Australia and New Zealand of rights and obligations contained in the AANZFTA as amended by the First Protocol and Second Protocol, which shall enter into force on the date on which the Second Protocol enters into force.

Yours sincerely

Hon Rino Tirikatene  
Minister of State for Trade and Export Growth  
New Zealand

23 November 2023

Hon Rino Tirikatene  
Minister of State for Trade and Export Growth  
New Zealand

Dear Minister Tirikatene

I have the honour of acknowledging receipt of the letter dated 31 August 2023 from the Hon Rino Tirikatene, to my colleague, Assistant Foreign Minister, the Hon Tim Watts MP, which stated as follows:

“I have the honour to refer to the Agreement Establishing the ASEAN - Australia - New Zealand Free Trade Area (**AANZFTA**) done at Cha-am, Phetchaburi on 27 February 2009 as amended by the First Protocol to Amend the AANZFTA which entered into force on 1 October 2015 (**First Protocol**) and the Second Protocol to Amend the AANZFTA signed by New Zealand and Australia at Semarang on 21 August 2023 (**Second Protocol**).

I have the further honour to confirm, for greater certainty, that the letters exchanged between Australia and New Zealand dated 27 February 2009 (**Letters-Treaty**) are equally valid and applicable with respect to AANZFTA as amended by the First Protocol and Second Protocol *mutatis mutandis*.

The Letters-Treaty 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, Phetchaburi 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 propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments on the application between Australia and New Zealand of rights and obligations contained in the AANZFTA as amended by the First Protocol and Second Protocol, which shall

enter into force on the date on which the Second Protocol enters into force.”

I have the further honour to confirm that your letter reflects the agreement between our two Governments on the application between Australia and New Zealand of rights and obligations contained in the AANZFTA as amended by the First Protocol and Second Protocol, and your letter and this letter in reply shall constitute an agreement between Australia and New Zealand, which shall enter into force on the date on which the Second Protocol enters into force.

Yours sincerely

**DON FARRELL**