

**SIDE LETTER CONCERNING NEW ZEALAND'S RESERVATION WITH
RESPECT TO WATER**

The Hon Julia Gillard
Prime Minister
Australia

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 Article 5 (National Treatment) and New Zealand's reservation II-NZ-2 to that Article in New Zealand's Schedule to Annex II of the Protocol.

In recognition of the longstanding friendship between New Zealand and Australia, and the joint commitment by both Parties to work towards achieving a trans-Tasman Single Economic Market, I propose that, within 5 years of the Protocol's entry into force, New Zealand shall review reservation II-NZ-2 in New Zealand's Schedule to Annex II of the Protocol in light of any developments in New Zealand on allocation of water rights. If a reservation remains, New Zealand commits to further regular reviews.

Pending such review, notwithstanding reservation II-NZ-2 in New Zealand's Schedule to Annex II of the Protocol, should Australia consider that New Zealand has adopted or is proposing to adopt any measure which, but for reservation II-NZ-2, would be inconsistent with its obligations under Article 5 (National Treatment), Australia may request consultations with New Zealand. Following receipt of such a request, New Zealand shall promptly enter into consultations with a view to both Parties seeking an early, equitable, and mutually satisfactory solution.

If the foregoing is acceptable to Australia, I have the honour to propose that this letter and your reply to that effect shall constitute an integral part of the Protocol.

Yours sincerely

.....
John Key

Rt Hon John Key
Prime Minister
New Zealand

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 Article 5 (National Treatment) and New Zealand's reservation II-NZ-2 to that Article in New Zealand's Schedule to Annex II of the Protocol.

In recognition of the longstanding friendship between New Zealand and Australia, and the joint commitment by both Parties to work towards achieving a trans-Tasman Single Economic Market, I propose that, within 5 years of the Protocol's entry into force, New Zealand shall review reservation II-NZ-2 in New Zealand's Schedule to Annex II of the Protocol in light of any developments in New Zealand on allocation of water rights. If a reservation remains, New Zealand commits to further regular reviews.

Pending such review, notwithstanding reservation II-NZ-2 in New Zealand's Schedule to Annex II of the Protocol, should Australia consider that New Zealand has adopted or is proposing to adopt any measure which, but for reservation II-NZ-2, would be inconsistent with its obligations under Article 5 (National Treatment), Australia may request consultations with New Zealand. Following receipt of such a request, New Zealand shall promptly enter into consultations with a view to both Parties seeking an early, equitable, and mutually satisfactory solution.

If the foregoing is acceptable to Australia, I have the honour to propose that this letter and your reply to that effect shall constitute an integral part of the Protocol."

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

Yours sincerely

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Julia Gillard