

8 April 2014

The Hon Andrew Robb AO, MP
Minister for Trade and Investment
Parliament House
CANBERRA ACT 2600

Dear Minister Robb

In connection with the signing on this date of the Korea-Australia Free Trade Agreement (the “Agreement”), I have the honour to confirm the following understandings reached between the delegations of the Republic of Korea and Australia during the course of negotiations regarding Chapter 11 (Investment) of the Agreement:

The Parties shall enter into consultations within 12 months of the date of entry into force of the Agreement on the future application of the United Nations Commission on International Trade Law (UNCITRAL) Rules on Transparency in Treaty-based Investor-State Arbitration (UN Doc A/CN.9/783) (the “UNCITRAL Transparency Rules”) to arbitrations initiated pursuant to Section B of Chapter 11 (Investment).

Unless the Parties otherwise agree, the UNCITRAL Transparency Rules shall not apply to arbitrations initiated pursuant to Section B of Chapter 11 (Investment).

I have the honour to propose that this letter and your letter in reply confirming that your Government shares these understandings shall constitute an integral part of the Agreement.

Yours sincerely

Yoon Sang-jick

8 April 2014

Mr Yoon Sang-jick
Minister of Trade, Industry and Energy
Seoul, Republic of Korea

Dear Minister Yoon

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

In connection with the signing on this date of the Korea-Australia Free Trade Agreement (the “Agreement”), I have the honour to confirm the following understandings reached between the delegations of the Republic of Korea and Australia during the course of negotiations regarding Chapter 11 (Investment) of the Agreement:

The Parties shall enter into consultations within 12 months of the date of entry into force of the Agreement on the future application of the United Nations Commission on International Trade Law (UNCITRAL) Rules on Transparency in Treaty-based Investor-State Arbitration (UN Doc A/CN.9/783) (the “UNCITRAL Transparency Rules”) to arbitrations initiated pursuant to Section B of Chapter 11 (Investment).

Unless the Parties otherwise agree, the UNCITRAL Transparency Rules shall not apply to arbitrations initiated pursuant to Section B of Chapter 11 (Investment).

I have the honour to propose that this letter and your letter in reply confirming that your Government shares these understandings shall constitute an integral part of the Agreement.

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

Yours sincerely

Andrew Robb