

4 February 2016

The Honourable Andrew Robb
Minister for Trade and Investment
Australia

Dear Minister,

In connection with the signing on this date of the Trans-Pacific Partnership Agreement (the “TPP Agreement”), I have the honour to confirm the following agreement reached between the Government of the Socialist Republic of Viet Nam (Viet Nam) and the Government of Australia during the course of negotiations of the TPP Agreement.

Australia and Viet Nam recognise the importance of foreign investment in the airline industry to enhance competition and the economic growth.

In relation to the entry on ANNEX I - VIET NAM - 41 of Viet Nam’s Schedule to Annex I of the Agreement, Viet Nam shall initiate a process to determine whether an investor of Australia, or a covered investment of an investor of Australia (the “investor”) will be granted a right to retain its charter capital contribution or shareholding as at the date of signature of the TPP Agreement in circumstances where:

- a) the investor is in possession of 30 per cent of charter capital or shares in a Vietnamese airline as at the date of signature of the TPP Agreement; and
- b) the aggregate foreign capital contribution or shareholding in that airline exceeds 30 per cent as a result of a foreign capital contribution or equity injection to a Vietnamese legal person or individual that also owns chartered capital or shares in that Vietnamese airline.

Viet Nam shall, within six months of signature of the TPP Agreement, complete such process.

If Viet Nam, by virtue of the process referred to in the preceding paragraphs, determine that the investor will be granted the right to retain its charter capital contribution or shareholding in the circumstances described above, Viet Nam shall not require the investor to reduce their charter capital contribution or share proportion (i.e. to divest).

I have the honour to propose that this letter and your letter of confirmation in reply, shall constitute an agreement between the Government of the Socialist Republic of Viet Nam and the Government of Australia, which shall enter into force on the date of entry into force of the TPP Agreement for both Viet Nam and Australia.

Yours sincerely,

Vu Huy Hoang
Minister of Industry and Trade
Socialist Republic of Viet Nam

4 February 2016

H.E. Dr. Vu Huy Hoang
Minister of Industry and Trade
Socialist Republic of Viet Nam

Dear Minister

I have the honour to acknowledge receipt of your letter of 4 February 2016, which reads as follows:

“In connection with the signing on this date of the Trans-Pacific Partnership Agreement (the “TPP Agreement”), I have the honour to confirm the following agreement reached between the Government of the Socialist Republic of Viet Nam (Viet Nam) and the Government of Australia during the course of negotiations of the TPP Agreement.

Australia and Viet Nam recognise the importance of foreign investment in the airline industry to enhance competition and the economic growth.

In relation to the entry on ANNEX I - VIET NAM - 41 of Viet Nam’s Schedule to Annex I of the Agreement, Viet Nam shall initiate a process to determine whether an investor of Australia, or a covered investment of an investor of Australia (the “investor”) will be granted a right to retain its charter capital contribution or shareholding as at the date of signature of the TPP Agreement in circumstances where:

- a) the investor is in possession of 30 per cent of charter capital or shares in a Vietnamese airline as at the date of signature of the TPP Agreement; and
- b) the aggregate foreign capital contribution or shareholding in that airline exceeds 30 per cent as a result of a foreign capital contribution or equity injection to a Vietnamese legal person or individual that also owns chartered capital or shares in that Vietnamese airline.

Viet Nam shall, within six months of signature of the TPP Agreement, complete such process.

If Vietnam, by virtue of the process referred to in the preceding paragraphs, determine that the investor will be granted the right to retain its charter capital contribution or shareholding in the circumstances described above, Viet Nam shall not require the investor to reduce their charter capital contribution or share proportion (i.e. to divest). I have the honour to propose that this letter and your letter of confirmation in reply, shall constitute an agreement between the Government of the Socialist Republic of Viet Nam and the Government of Australia, which shall enter into force on the date of entry into force of the TPP Agreement for both Viet Nam and Australia.”

I have the honour to confirm that the above reflects the agreement reached between the Government of Australia and the Government of the Socialist Republic of Viet Nam during the course of negotiations on the TPP Agreement, and that your letter and this letter in reply shall constitute an agreement between the Government of Australia and the Government of the Socialist Republic of Viet Nam.

Yours sincerely

Andrew Robb