

DEPUTY PRIME MINISTER OF AUSTRALIA  
UNITED STATES JURISDICTION - FOREIGN PROCEEDINGS  
(EXCESS OF JURISDICTION) ACT - EXCHANGE OF  
INFORMATION BETWEEN REGULATORY BODIES ON PROPOSED TRADING  
BETWEEN SYDNEY FUTURES EXCHANGE AND THE  
NEW YORK COMMODITY EXCHANGE\*

Dear Ms Phillips,

You have asked for an assurance that the Australian Government will not invoke its powers under the Foreign Proceedings (Excess of Jurisdiction) Act to prevent the exchange of information between Australian and United States' regulatory bodies, in light of the proposed trading linkage between the Sydney Futures Exchange ('SFE') and the New York Commodity Exchange ('COMEX').

The purpose of such an exchange of information would be to ensure market protection and to facilitate law enforcement, given the ability of operators to trade the same 'linked' product on both Comex and SFE. The Australian Government actively encourages this linkage and sees the proper regulation of such a trading arrangement as very important.

The Foreign Proceedings (Excess of Jurisdiction) Act and the legislation that preceded it were enacted to protect Australia's trading interests and policies. As I said in the Second Reading Speech to the introduction of the Act into Parliament, it is legislation of last resort, the substantive provisions of which will only operate when activated by an Order made by the Attorney-General. The grounds under which I can make an Order blocking the production of documents or information for the purposes of a foreign authority are, briefly, where the exercise of jurisdiction by the foreign authority exceeds that permissible under international law or where I am satisfied that an Order would be desirable for the protection of Australia's national interest.

Given that the proposed SFE/COMEX link and the concomitant responsibilities for market regulation are very much in Australia's national interest, and that the information exchange arrangements are consensual in nature, having the concurrence of the Australian Government, I cannot conceive of any circumstances under which I would need to consider the exercise of my powers under the Act.

Yours sincerely,



(Lionel Bowen)

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\* [The text of this letter was provided by the Attorney-General's Department, Canberra].