

## ANNEX 3

### SCHEDULE OF RESERVATIONS AND NON-CONFORMING MEASURES FOR INVESTMENT AND SERVICES

#### AUSTRALIA

#### LIST A

#### EXPLANATORY NOTES

1. This List A sets out, pursuant to Article 12 (Schedules of Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), Australia's existing measures that are not subject to some or all of the obligations imposed by:

- (a) Article 4 (National Treatment) of Chapter 8 (Trade in Services) or Article 3 (National Treatment) of Chapter 11 (Investment);
- (b) Article 5 (Market Access) of Chapter 8 (Trade in Services);
- (c) Article 9 (Most-Favoured-Nation Treatment) of Chapter 8 (Trade in Services) or Article 4 (Most-Favoured-Nation Treatment) of Chapter 11 (Investment);
- (d) Article 10 (Local Presence) of Chapter 8 (Trade in Services);
- (e) Article 5 (Senior Management and Board of Directors) of Chapter 11 (Investment); or
- (f) Article 6 (Prohibition of Performance Requirements) of Chapter 11 (Investment).

2. Each entry in this List A sets out the following elements:

- (a) **Sector** refers to the sector for which the entry is made;
- (b) **Subsector** where referenced, refers to the specific subsector for which the entry is made;
- (c) **Level of Government** indicates the level of government maintaining the listed measures;
- (d) **Obligations Concerned** specifies the obligations referred to in Paragraph 1 that, pursuant to Article 12 (Schedules of Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), do not apply to the listed measures;
- (e) **Description** sets out the non-conforming measure for which the entry is made; and

- (f) **Source of Measure** means the laws, regulations or other measures that are the source of the non-conforming measure for which the entry is made. A measure cited in the Source of Measure element:
- (i) means the measure as amended, continued or renewed as of the date of entry into force of the Second Protocol, and
  - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure.

3. In accordance with Article 12 (Schedules of Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming measure identified in the Description element of that entry.

4. A measure that is reserved against Article 10 (Local Presence) of Chapter 8 (Trade in Services) need not be reserved against Article 4 (National Treatment) of Chapter 8 (Trade in Services).

5. For greater certainty, the Description element of each of the entries in this List A is to be interpreted in accordance with the relevant cited sources of the non-conforming measures.

6. The Schedules of other Parties shall not be used to interpret Australia's commitments or obligations under Chapter 8 (Trade in Services) or Chapter 11 (Investment).

7. Commitments on measures with respect to or relating to trade in financial services are undertaken subject to the limitations and conditions set forth in Chapter 8 (Trade in Services), Annex 8A (Financial Services), Chapter 11 (Investment), these Explanatory Notes and this List A.

8. Without prejudice to other means of prudential regulation, Australia reserves the right to require licensing or registration of financial service suppliers and of financial instruments.

1.	Sector	:	All Sectors
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Most-Favoured-Nation Treatment (Trade in Services and Investment)  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  1. The following investments <sup>1,2</sup> are subject to approval by the Australian Government and may also require notification <sup>3</sup> to the Australian Government:  (a) a proposed investment by a foreign person <sup>4</sup> in an entity or Australian business valued above AUD310 million <sup>5</sup> ;  (b) a proposed direct investment by a foreign government investor <sup>6</sup> of any interest regardless of value;  (c) a proposed investment by a foreign person of five per cent or more in the media sector, regardless of the value of the investment;

<sup>1</sup> The terms in this entry shall be interpreted in accordance with Australia's Foreign Investment Framework as at the date of entry into force of the Second Protocol.

<sup>2</sup> "Investment" means activities covered by Part II of *Foreign Acquisitions and Takeovers Act 1975* (Cth) or, where applicable, Ministerial Statements on foreign investment policy. Funding arrangements that include debt instruments having quasi-equity characteristics will be treated as direct foreign investment.

<sup>3</sup> The *Foreign Acquisitions and Takeovers Fees Imposition Act 2015* (Cth) and the *Foreign Acquisitions and Takeovers Fees Imposition Regulations 2020* (Cth) set the fees for foreign investment applications and notices. Fees are indexed annually on 1 July.

<sup>4</sup> For the purposes of this entry, the term "foreign person" has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and the *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>5</sup> This is the figure as at 1 January 2023. To be indexed annually on 1 January.

<sup>6</sup> The term "foreign government investor" has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

		<p>(d) a proposed acquisition by a foreign person of an interest in developed commercial land<sup>7</sup> where the value of the interest is more than AUD310 million<sup>8</sup>, unless the land meets the conditions for the lower developed commercial land threshold of AUD67 million.<sup>9,10</sup></p> <p>Investments may be refused, subject to orders, or approved, subject to conditions. Foreign persons that do not comply with the Foreign Investment Framework may be subject to civil and criminal penalties. For greater certainty, where an investment could qualify for the application of one or more of the above screening thresholds, approval and/or notification requirements apply from the lowest applicable threshold.</p> <p>Separate or additional requirements may apply to measures subject to other entries in this List A and to sectors, subsectors or activities subject to List B.</p> <p>2. The acquisition of a stake in an existing<sup>11</sup> financial sector company by a foreign investor, or entry into an arrangement by a foreign investor, that would lead to an unacceptable shareholding situation or to practical control<sup>12</sup> of an existing financial sector company, may be refused or be subject to certain conditions<sup>13</sup>.</p>
	Source of Measure	: Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy; <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth); <i>Foreign Acquisitions and Takeovers</i>

<sup>7</sup> The term "developed commercial land" means commercial land that is not vacant within the meaning of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>8</sup> This is the figure as at 1 January 2023. To be indexed annually on 1 January.

<sup>9</sup> This is the figure as at 1 January 2023. To be indexed annually on 1 January.

<sup>10</sup> The conditions for the lower threshold are those set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>11</sup> For the purposes of this entry, "existing" means in existence at the time the investment is proposed or made.

<sup>12</sup> "Unacceptable shareholding situation" and "practical control" have the meaning set out in the *Financial Sector (Shareholdings) Act 1998* (Cth).

<sup>13</sup> Ministerial statements on foreign investment policy including the Treasurer's Press Release No. 28 of 9 April 1997.

		<i>Regulation 2015 (Cth); Foreign Acquisitions and Takeovers Fees Imposition Act 2015 (Cth); Foreign Acquisitions and Takeovers Fees Imposition Regulations 2020 (Cth); Financial Sector (Shareholdings) Act 1998 (Cth); and Ministerial Statements.</i>
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2.	Sector	:	All Sectors
	Subsector	:	-
	Level of Government	:	Regional
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Most-Favoured-Nation Treatment (Trade in Services and Investment)  Local Presence  Prohibition of Performance Requirements  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  All existing non-conforming measures at the regional level of government.
	Source of Measure	:	All existing non-conforming measures at the regional level of government.

3.	Sector	:	All Sectors
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  At least one director of a private company must be ordinarily resident in Australia.  At least two directors of a public company must be ordinarily resident in Australia.  At least one secretary of a private company (if such a private company appoints one or more secretaries) must be ordinarily resident in Australia.  At least one secretary of a public company must be ordinarily resident in Australia.
	Source of Measure	:	<i>Corporations Act 2001</i> (Cth)  <i>Corporations Regulations 2001</i> (Cth)

4.	Sector	:	Professional Services
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services) Most-Favoured-Nation Treatment (Trade in Services)
	Description	:	<u>Trade in Services</u>  In order to register to practise in Australia, patent attorneys must have been employed for at least two continuous years, or a total of two years within five continuous years, in Australia or New Zealand, or in both countries, in a position or positions that provided the applicant with required experience in Australia's and New Zealand's patent attorney regime.
	Source of Measure	:	<i>Patents Act 1990 (Cth)</i> <i>Patent Regulations 1991 (Cth)</i>



5.	Sector	:	Professional Services
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services) Most-Favoured-Nation Treatment (Trade in Services)
	Description	:	<u>Trade in Services</u> To practise as a migration agent in Australia a person must be an Australian citizen or permanent resident or a citizen of New Zealand with a special category visa.
	Source of Measure	:	<i>Migration Act 1958 (Cth)</i>

6.	Sector	:	Professional Services
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	Local Presence
	Description	:	<p><u>Trade in Services</u></p> <p>A person who is not ordinarily resident in Australia may be refused registration as a company auditor or liquidator.</p> <p>At least one partner in a firm providing auditing services must be a registered company auditor who is ordinarily resident in Australia.</p>
	Source of Measure	:	<i>Corporations Act 2001 (Cth)</i>

7.	Sector	:	Professional Services
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	Local Presence
	Description	:	<u>Trade in Services</u> To act as a customs broker in Australia, service suppliers must supply the service in and from Australia.
	Source of Measure	:	<i>Customs Act 1901 (Cth)</i>

8.	Sector	:	Fishing and services incidental to fishing
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)
	Description	:	<p><u>Trade in Services and Investment</u></p> <p>Foreign fishing vessels<sup>14</sup> seeking to undertake fishing activity, including any activity in support of or in preparation for any fishing activity or the processing, carrying or transshipment of fish, in the Australian Fishing Zone must be authorised.</p> <p>Where foreign fishing vessels are authorised they may be subject to a levy<sup>15</sup>.</p>
	Source of Measure	:	<p><i>Fisheries Management Act 1991 (Cth)</i></p> <p><i>Foreign Fishing Licences Levy Act 1991 (Cth)</i></p>

<sup>14</sup> For the purposes of this entry, a “foreign fishing vessel” is one that does not meet the definition of an Australian boat under the *Fisheries Management Act 1991 (Cth)*, that is, an Australian-flagged boat (not owned by a foreign resident) or a boat owned by an Australian resident or corporation and built, and whose operations are based, in Australia.

<sup>15</sup> The levy charged will be in accordance with the *Foreign Fishing Licences Levy Act 1991 (Cth)* or any amendments thereto.

9.	Sector	:	Communication Services
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  Aggregate foreign equity is restricted to no more than 35 per cent of shares of Telstra. Individual or associated group foreign investment is restricted to no more than five per cent of shares. The Chairperson and a majority of directors of Telstra must be Australian citizens and Telstra is required to maintain its head office, main base of operations and place of incorporation in Australia.
	Source of Measure	:	<i>Telstra Corporation Act 1991 (Cth)</i>

10.	Sector	:	Health Services
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  The votes attached to significant foreign shareholdings <sup>16</sup> may not be counted in respect of the appointment, replacement or removal of more than one-third of the directors of Commonwealth Serum Laboratories (CSL) who hold office at a particular time.  The head office, principal facilities used by CSL and any CSL subsidiaries used to produce products derived from human plasma collected from blood or plasma donated by individuals in Australia must remain in Australia.  Two-thirds of the directors of the board of CSL and the Chairperson of any meeting must be Australian citizens. CSL must not seek incorporation outside of Australia.
	Source of Measure	:	<i>Commonwealth Serum Laboratories Act 1961 (Cth)</i>

<sup>16</sup> For the purposes of this entry, "significant foreign shareholding" means a holding of voting shares in CSL in which a foreign person has a relevant interest, if the foreign person has relevant interests in at least five per cent of the voting shares in CSL.

11.	Sector	:	Transport Services
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Local Presence
	Description	:	<u>Trade in Services and Investment</u>  Every ocean carrier who provides international liner cargo shipping services to or from Australia must, at all times, be represented by a natural person who is resident in Australia.  Only a person <sup>17</sup> affected by a registered conference agreement or by a registered non-conference ocean carrier with substantial market power may apply to the Australian Competition and Consumer Commission (ACCC) to examine whether conference members, and non-conference operators with substantial market power, are hindering other shipping operators from engaging efficiently in the provision of outward liner cargo services to an extent that is reasonable. For greater certainty, matters which are relevant to the determination of “reasonable” include Australia’s national interest and the interests of Australian shippers.
	Source of Measure	:	<i>Competition and Consumer Act 2010 (Cth)</i>

<sup>17</sup> Section 10.48 and 10.58 of Part X of the *Competition and Consumer Act 2010 (Cth)* list the categories of persons to whom this entry will apply.

12.	Sector	:	Transport Services
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  Total foreign ownership of individual Australian international airlines (other than Qantas) is restricted to a maximum of 49 per cent.  Furthermore, it is required that: <ul style="list-style-type: none"> <li>• at least two-thirds of the board members must be Australian citizens;</li> <li>• the Chairperson of the board must be an Australian citizen;</li> <li>• the airline's head office must be in Australia; and</li> <li>• the airline's operational base must be in Australia.</li> </ul>
	Source of Measure	:	<i>Air Navigation Act 1920</i> (Cth)  Ministerial Statements



13.	Sector	:	Transport Services
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  Total foreign ownership of Qantas Airways Ltd is restricted to a maximum of 49 per cent. In addition: <ul style="list-style-type: none"> <li>• the head office of Qantas must always be located in Australia;</li> <li>• the majority of Qantas' operational facilities must be located in Australia;</li> <li>• at all times, at least two-thirds of the directors of Qantas must be Australian citizens;</li> <li>• at a meeting of the board of directors of Qantas, the director presiding at the meeting (however described) must be an Australian citizen; and</li> <li>• Qantas is prohibited from taking any action to become incorporated outside Australia.</li> </ul>
	Source of Measure	:	<i>Qantas Sale Act 1992 (Cth)</i>

14.	Sector	:	Transport Services
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access
	Description	:	<u>Trade in Services and Investment</u>  The following functions and services are reserved to provision by the statutory authority, Airservices Australia: airspace management, air traffic flow information, air traffic control, traffic and flight information, navigation services, aeronautical information, and aerodrome rescue and fire-fighting services.
	Source of Measure	:	<i>Air Services Act 1995 (Cth)</i>  <i>Air Services Regulations 1995 (Cth)</i>  <i>Public Governance, Performance and Accountability Act 2013 (Cth)</i>

15.	Sector	:	Communication Services
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Most-Favoured-Nation Treatment (Trade in Services and Investment)
	Description	:	<u>Trade in Services and Investment</u>  Australia Post, a wholly-owned government entity, has the exclusive right to issue postage stamps and carry letters within Australia, whether the letters originated within or outside Australia. This includes:  <ul style="list-style-type: none"> <li>• the collection within Australia of letters for delivery within Australia; and</li> <li>• the delivery of letters within Australia.</li> </ul> This entry does not include:  <ul style="list-style-type: none"> <li>• the carriage of a letter weighing more than 250 grams;</li> <li>• the carriage of a letter within Australia for a charge or fee that is at least four times the rate of postage that is current at the time for the carriage within Australia of a standard postal article by ordinary post<sup>18</sup>; and</li> <li>• other exceptions to the reserved services set out in section 30 of the <i>Australian Postal Corporation Act 1989</i> (Cth).</li> </ul> Australia Post also has certain rights, powers and immunities ascribed only to it, such as the use and access to public land for the provision of postal and courier services.
	Source of Measure	:	<i>Australian Postal Corporation Act 1989</i> (Cth)

<sup>18</sup> As specified in accordance with the *Australian Postal Corporation Act 1989* (Cth) and its subordinate legislation and regulations or any amendments thereto.

16.	Sector	:	All Sectors
	Subsector	:	-
	Level of Government	:	Central Regional
	Obligations Concerned	:	Prohibition of Performance Requirements <sup>19</sup>
	Description	:	<u>Investment</u>  A design that has been registered or disclosed in a filed design application may be used by an Australian government (or a person authorised by an Australian government) and, if it is used, any agreement or licence fixing the terms on which a person other than that government may use the design may be inoperative with respect to the government use unless the agreement or licence has been approved by that government.
	Source of Measure	:	<i>Designs Act 2003 (Cth)</i>

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<sup>19</sup> Applies only in relation to Article 6.1(h) (Prohibition of Performance Requirements) of Chapter 11 (Investment).

17.	Sector	:	Financial Services
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access
	Description	:	<p><u>Trade in Services and Investment</u></p> <p>A foreign bank located overseas is able to offer its services to Australian enterprises, but is not allowed to raise deposit funds in Australia or undertake business within Australia unless it is an authorised bank (or establishes a money market corporation, subsidiary, etc.).</p> <p>Foreign banks located overseas may only raise funds in Australia through the issue of debt securities provided those securities are offered or traded in parcels of not less than AUD500,000 and the securities and any associated information memoranda clearly state the issuing bank is not authorised under the <i>Banking Act 1959</i> (Cth) in Australia.</p> <p>To undertake banking business in Australia an entity must be a body corporate and authorised as an authorised deposit-taking institution (ADI).</p> <p>Foreign deposit-taking institutions (including foreign banks) may only operate a banking business in Australia through locally incorporated deposit-taking subsidiaries or authorised branches (foreign ADIs), or through both structures.</p> <p>A branch of a foreign bank that is authorised as a deposit-taking institution in Australia (foreign ADI) is not permitted to accept initial deposits (and other funds) from individuals and non-corporate institutions of less than AUD250,000.</p> <p>A representative office of a foreign bank is not permitted to undertake any banking business, including advertising for deposits, in Australia. Such a representative office is only permitted to act as a liaison point.</p>
	Source of Measure	:	<i>Banking Act 1959</i> (Cth)

			<i>Payment Systems (Regulation) Act 1998 (Cth)</i>
18.	Sector	:	Financial Services
	Subsector	:	-
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)
	Description	:	<u>Trade in Services and Investment</u>  Liabilities of the Commonwealth Bank, previously Commonwealth Government-owned, are covered by transitional guarantee arrangements.
	Source of Measure	:	<i>Commonwealth Banks Act 1959 (Cth)</i>

19.	Sector	:	Financial Services
	Subsector	:	Life insurance services
	Level of Government	:	Central
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Most-Favoured-Nation Treatment (Trade in Services and Investment)
	Description	:	<u>Trade in Services and Investment</u>  Approval of non-resident life insurers is restricted to subsidiaries incorporated under Australian law.
	Source of Measure	:	<i>Life Insurance Act 1995</i> (Cth)

## LIST B

### EXPLANATORY NOTES

1. This List B sets out, pursuant to Article 12 (Schedules of Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), the specific sectors, subsectors or activities for which Australia may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 4 (National Treatment) of Chapter 8 (Trade in Services) or Article 3 (National Treatment) of Chapter 11 (Investment);
- (b) Article 5 (Market Access) of Chapter 8 (Trade in Services);
- (c) Article 9 (Most-Favoured-Nation Treatment) of Chapter 8 (Trade in Services) or Article 4 (Most-Favoured-Nation Treatment) of Chapter 11 (Investment);
- (d) Article 10 (Local Presence) of Chapter 8 (Trade in Services);
- (e) Article 5 (Senior Management and Board of Directors) of Chapter 11 (Investment); or
- (f) Article 6 (Prohibition of Performance Requirements) of Chapter 11 (Investment).

2. Each entry in this List B sets out the following elements:

- (a) **Sector** refers to the sector for which the entry is made;
- (b) **Subsector** where referenced, refers to the specific subsector for which the entry is made;
- (c) **Obligations Concerned** specifies the obligations referred to in Paragraph 1 that, pursuant to Article 12 (Schedules of Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), do not apply to the sectors, subsectors or activities listed in the entry;
- (d) **Description** sets out the scope of the sector, subsector or activities covered by the entry; and
- (e) **Existing Measures** where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors or activities covered by the entry.

3. In accordance with Article 12 (Schedules of Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 13 (Reservations and Non-Conforming Measures) of Chapter 11 (Investment), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors and activities identified in the Description element of that entry.



4. For greater certainty, where Australia has more than one entry in this List B that could apply to a measure, each entry is to be read independently, and is without prejudice to the application of any other entry to the measure.

5. The Schedules of other Parties shall not be used to interpret Australia's commitments or obligations under Chapter 8 (Trade in Services) or Chapter 11 (Investment).

6. Commitments on measures with respect to or relating to trade in financial services are undertaken subject to the limitations and conditions set forth in Chapter 8 (Trade in Services), Annex 8A (Financial Services), Chapter 11 (Investment), these Explanatory Notes and this List B.

7. Without prejudice to other means of prudential regulation, Australia reserves the right to require licensing or registration of financial service suppliers and of financial instruments.

8. For the avoidance of doubt, in relation to education services, nothing in Chapter 8 (Trade in Services) or Chapter 11 (Investment) shall interfere with:

- (a) the ability of individual education and training institutions to maintain autonomy in admissions policies (including in relation to considerations of equal opportunity for students and recognition of credits and degrees), in setting tuition rates and in the development of curricula or course content;
- (b) non-discriminatory accreditation and quality assurance procedures for education and training institutions and their programmes, including the standards that must be met;
- (c) government funding, subsidies or grants, such as land grants, preferential tax treatment and other public benefits, provided to education and training institutions; or
- (d) the need for education and training institutions to comply with non-discriminatory requirements related to the establishment and operation of a facility in a particular jurisdiction.

1.	Sector	:	All Sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Prohibition of Performance Requirements
	Description	:	<u>Trade in Services and Investment</u> <sup>20</sup>  Australia reserves the right to adopt or maintain any measure with respect to a proposed acquisition by a foreign person <sup>21</sup> of an interest in Australian land <sup>22</sup> , other than developed commercial land or land that is used wholly and exclusively for a primary production business.
	Existing Measures	:	Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy; <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth); <i>Foreign Acquisitions and Takeovers Regulation 2015</i> (Cth); <i>Foreign Acquisitions and Takeovers Fees Imposition Act 2015</i> (Cth); <i>Foreign Acquisitions and Takeovers Fees Imposition Regulations 2020</i> (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements.

<sup>20</sup> The terms in this entry shall be interpreted in accordance with Australia's Foreign Investment Framework, as at the date of entry into force of the Second Protocol.

<sup>21</sup> The term "foreign person" has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>22</sup> The terms "Australian land" and "interest in Australian land" have the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

2.	Sector	:	All Sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Most-Favoured-Nation Treatment (Trade in Services and Investment)  Prohibition of Performance Requirements  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u> <sup>23</sup>  Australia reserves the right to adopt or maintain any measure with respect to the proposed acquisition by a foreign person <sup>24</sup> of an interest in agricultural land <sup>25</sup> , where the cumulative value of agricultural land owned by the foreign person alone or together with associates, including the proposed acquisition, is above AUD15 million. Australia reserves the right to adopt or maintain any measure with respect to the proposed acquisition by a foreign person of an interest in an agribusiness <sup>26</sup> where the cumulative value of the interest held by the foreign person in that agribusiness, alone or together with associates, including the proposed acquisition, is above AUD67 million.
	Existing Measures	:	Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy; <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth); <i>Foreign Acquisitions and Takeovers Regulations 2015</i> (Cth); <i>Foreign Acquisitions and Takeovers Fees Imposition Act 2015</i> (Cth); <i>Foreign Acquisitions and Takeovers Fees Imposition Regulations 2020</i> (Cth); <i>Financial</i>

<sup>23</sup> The terms in this entry shall be interpreted in accordance with Australia's Foreign Investment Framework, as at the date of entry into force of the Second Protocol.

<sup>24</sup> The term "foreign person" has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>25</sup> The term "agricultural land" has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>26</sup> The term "agribusiness" has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

		<i>Sector (Shareholdings) Act 1998 (Cth); and Ministerial Statements.</i>
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3.	Sector	:	All Sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Most-Favoured-Nation Treatment (Trade in Services and Investment)  Local Presence  Prohibition of Performance Requirements  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  Australia reserves the right to adopt or maintain any measure that it considers necessary for the protection of its essential security interests.
	Existing Measures	:	-

4.	Sector	:	All Sectors
	Subsector	:	-
	Obligations Concerned	:	Market Access Most-Favoured-Nation Treatment (Trade in Services)
	Description	:	<u>Trade in Services</u> Australia reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, subject to the provisions of Chapter 9 (Movement of Natural Persons).
	Existing Measures	:	-

5.	Sector	:	All Sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Local Presence  Prohibition of Performance Requirements  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  Australia reserves the right to adopt or maintain any measure that accords preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation.  For the purpose of this reservation, an Indigenous person means a person of the Aboriginal and Torres Strait Islander peoples.
	Existing Measures	:	Legislation and ministerial statements at all levels of government including Australia's foreign investment framework, and the <i>Native Title Act 1993</i> (Cth).

6.	Sector	:	All Sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Most-Favoured-Nation Treatment (Trade in Services and Investment)  Prohibition of Performance Requirements  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  Australia reserves the right to adopt or maintain any measure with respect to:  (a) the devolution to the private sector of services provided in the exercise of governmental authority at the time of entry into force of the Second Protocol; and  (b) the privatisation of government owned entities or assets.
	Existing Measures	:	-



7.	Sector	:	All Sectors
	Subsector	:	-
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Most-Favoured-Nation Treatment (Trade in Services and Investment)  Local Presence  Prohibition of Performance Requirements  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  Australia reserves the right to adopt or maintain any measure <sup>27</sup> with respect to the provision of law enforcement and correctional services, and the following services <sup>28</sup> to the extent that they are social services established or maintained for a public purpose:  <ul style="list-style-type: none"> <li>• income security or insurance;</li> <li>• social security or insurance;</li> <li>• social welfare;</li> <li>• public education;</li> <li>• public training;</li> <li>• health<sup>29</sup>;</li> <li>• child care;</li> <li>• public utilities;</li> <li>• public transport; and</li> </ul>

<sup>27</sup> For greater certainty, measures adopted or maintained with respect to the provision of services covered by this entry include measures for the protection of personal information relating to health and children.

<sup>28</sup> For the avoidance of doubt, this includes any measure with respect to: the collection of blood and its components, the distribution of blood and blood-related products, including plasma derived products, plasma fractionation services, and the procurement of blood and blood related products and services.

<sup>29</sup> For greater certainty, the subsidies programmes under Australia's Pharmaceutical Benefits Scheme and Medicare Benefits Scheme, or successor programmes, are not subject to Chapter 8 (Trade in Services) consistent with Article 2 (Scope) or Chapter 11 (Investment) consistent with Article 2 (Scope).

		<ul style="list-style-type: none"><li>• public housing.</li></ul>
	Existing Measures	: -

8.	Sector	:	Communications Services; Recreational, Cultural and Sporting Services
	Subsector	:	-
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Most-Favoured-Nation Treatment (Trade in Services and Investment)  Local Presence  Prohibition of Performance Requirements  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  Australia reserves the right to adopt or maintain any measure with respect to:  (a) the creative arts <sup>30</sup> , cultural heritage <sup>31</sup> and other cultural industries, including audio-visual services, entertainment services and libraries, archives, museums and other cultural services; and  (b) broadcasting and audio-visual services, including measures with respect to planning, licensing and spectrum management, and including:  (i) services offered in Australia; and  (ii) international services originating from Australia.
	Existing Measures	:	<i>Broadcasting Services Act 1992 (Cth)</i>  <i>Radiocommunications Act 1992 (Cth)</i>  <i>Income Tax Assessment Act 1936 (Cth)</i>

<sup>30</sup> "Creative arts" include: the performing arts – including theatre, dance and music – visual arts and craft, literature, film, television, video, radio, creative on-line content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid arts work which uses new technologies to transcend discrete art form divisions.

<sup>31</sup> "Cultural heritage" includes: ethnological, archaeological, historical, literary, artistic, scientific or technological moveable or built heritage, including the collections which are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions.

		<p><i>Income Tax Assessment Act 1997 (Cth)</i></p> <p><i>Screen Australia Act 2008 (Cth)</i></p> <p><i>Australia Council Act 2013 (Cth)</i></p> <p>Broadcasting Services (Australian Content and Children's Television) Standards 2020</p> <p>Broadcasting Services (Australian Content in Advertising) Standard 2018</p> <p>Broadcasting Services (Events) Notice (No.1) 2010</p> <p>ABC Codes of Practice</p> <p>SBS Codes of Practice</p> <p>Commercial Radio Codes of Practice and Guidelines</p> <p>Community Radio Broadcasting Codes of Practice</p> <p>Subscription Narrowcast Radio Codes of Practice</p> <p>Open Narrowcasting Codes of Practice and the associated Narrowcasting for Radio Guidelines</p> <p>International Co-Production Programs</p>
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9.	Sector	:	Distribution Services
	Subsector	:	-
	Obligations Concerned	:	Market Access
	Description	:	<u>Trade in Services</u> Australia reserves the right to adopt or maintain any measure with respect to wholesale and retail trade services of tobacco products, alcoholic beverages, or firearms.
	Existing Measures	:	-

10.	Sector	:	Education Sector
	Subsector	:	-
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Most-Favoured-Nation Treatment (Trade in Services and Investment)  Local Presence  Prohibition of Performance Requirements  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  Australia reserves the right to adopt or maintain any measure with respect to primary education.
	Existing Measures	:	-

11.	Sector	:	Gambling and Betting
	Subsector	:	-
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Local Presence  Prohibition of Performance Requirements  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  Australia reserves the right to adopt or maintain any measure with respect to gambling and betting.
	Existing Measures	:	Legislation and Ministerial Statements, including the <i>Interactive Gambling Act 2001</i> (Cth).

12.	Sector	:	Maritime Transport
	Subsector	:	-
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Local Presence  Prohibition of Performance Requirements  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  Australia reserves the right to adopt or maintain any measure with respect to maritime cabotage services and offshore transport services. <sup>32</sup>  Australia reserves the right to adopt or maintain any measure with respect to the registration of vessels in Australia.
	Existing Measures	:	<i>Customs Act 1901 (Cth)</i>  <i>Fair Work Act 2009 (Cth)</i>  <i>Seafarers' Rehabilitation and Compensation Act 1992 (Cth)</i>  <i>Occupational Health and Safety (Maritime Industry) Act 1993 (Cth)</i>  <i>Shipping Registration Act 1981 (Cth)</i>  <i>Shipping Registration Regulations 1981 (Cth)</i>  <i>Income Tax Assessment Act 1936 (Cth)</i>  <i>Coastal Trading (Revitalising Australian Shipping) Act 2012 (Cth)</i>  <i>Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012 (Cth)</i>

<sup>32</sup> For the purposes of this entry, "cabotage" is defined as the transportation of passengers or goods between a port located in Australia and another port located in Australia and traffic originating and terminating in the same port located in Australia. "Offshore transport" refers to shipping services involving the transportation of passengers or goods between a port located in Australia and any location associated with or incidental to the exploration or exploitation of natural resources of the continental shelf of Australia, the seabed of the Australian coastal sea and the subsoil of that seabed.



			<i>Shipping Reform (Tax Incentives) Act 2012 (Cth).</i>
13.	Sector	:	Transport Services
	Subsector	:	-
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Senior Management and Boards of Directors
	Description	:	<u>Trade in Services and Investment</u>  Australia reserves the right to adopt or maintain any measure with respect to investment in federal leased airports.
	Existing Measures	:	<i>Airports Act 1996 (Cth)</i>  <i>Airports (Ownership-Interests in Shares) Regulations 1996 (Cth)</i>  <i>Airports Regulations 1997 (Cth)</i>

14.	Sector	:	All Sectors
	Subsector	:	-
	Obligations Concerned	:	Most-Favoured-Nation Treatment (Trade in Services and Investment)
	Description	:	<p><u>Trade in Services and Investment</u></p> <p>Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of the Second Protocol.<sup>33</sup></p> <p>Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor taken as part of a process of economic integration or trade liberalisation between the parties to the <i>Australia New Zealand Closer Economic Relations Trade Agreement</i> done at Canberra on 28 March 1983 (ANZCERTA).<sup>34</sup></p> <p>Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor of a Pacific Islands Forum member state under any international agreement in force or signed after the date of entry into force of the Second Protocol.</p> <p>Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor under any bilateral or multilateral international agreement in force or signed after the date of entry into force of the Second Protocol involving:</p> <p>(a) aviation;</p> <p>(b) fisheries; or</p> <p>(c) maritime matters, including salvage.</p>
	Existing Measures	:	-

<sup>33</sup> For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement.

<sup>34</sup> For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to that agreement.

15.	Sector	:	Agriculture
	Subsector	:	-
	Obligations Concerned	:	<p>National Treatment (Trade in Services and Investment)</p> <p>Market Access</p> <p>Most-Favoured-Nation Treatment (Trade in Services and Investment)</p> <p>Local Presence</p> <p>Prohibition of Performance Requirements</p> <p>Senior Management and Boards of Directors</p>
	Description	:	<p><u>Trade in Services and Investment</u></p> <p>Australia reserves the right to adopt or maintain any measure with respect to marketing boards or similar arrangements.</p>
	Existing Measures	:	-

16.	Sector	:	All Sectors
	Subsector	:	-
	Obligations Concerned	:	Market Access
	Description	:	<p><u>Trade in Services</u></p> <ol style="list-style-type: none"> <li>1. Australia reserves the right to adopt or maintain any measure at the regional level of government, except: <ol style="list-style-type: none"> <li>(a) for the sectors and subsectors, and subject to the limitations and conditions, listed in Appendix A to this List B; and</li> <li>(b) as provided in Paragraph 2 of this entry.</li> </ol> </li> <li>2. With respect to financial services, Australia reserves the right to adopt or maintain any measure at the regional level of government that is not inconsistent with Australia's revised Services Offer of 31 May 2005 in the World Trade Organization Doha Development Agenda negotiations (WTO Document TN/S/O/AUS/Rev.1).</li> </ol>
	Existing Measures	:	-

17.	Sector	:	Services Related to Air Transportation
	Subsector	:	-
	Obligations Concerned	:	<p>National Treatment (Trade in Services and Investment)</p> <p>Market Access</p> <p>Most-Favoured-Nation Treatment (Trade in Services and Investment)</p> <p>Local Presence</p> <p>Prohibition of Performance Requirements</p> <p>Senior Management and Boards of Directors</p>
	Description	:	<p><u>Trade in Services and Investment</u></p> <p>Australia reserves the right to adopt or maintain any measure with respect to the services listed in Article 2.3(e)(iv) to (vi) (Scope) of Chapter 8 (Trade in Services), except for:</p> <p>(a) specialty air services, meaning any specialised commercial operation using an aircraft whose primary purpose is not the transportation of goods or passengers, such as aerial fire-fighting, flight training, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, and helicopter-lift for logging and construction, and other airborne agricultural, industrial and inspection services;</p> <p>(b) ground handling services,<sup>35</sup> meaning the supply at an airport, on a fee or contract basis, of the following services: airline representation, administration and supervision; passenger handling; baggage handling; ramp services; catering, except the preparation of the food; air cargo and mail handling; fuelling of an aircraft; aircraft servicing and cleaning; surface transport; and flight operations, crew administration and flight planning; or</p>

<sup>35</sup> Ground handling services do not include: self-handling; security; line maintenance; aircraft repair and maintenance; or management or operation of essential centralised airport infrastructure, such as de-icing facilities, fuel distribution systems, baggage handling systems and fixed intra-airport transport systems.

		(c) airport operation services, meaning the supply of air terminal, airfield and other airport infrastructure operation services on a fee or contract basis. Airport operation services do not include air navigation services.
Existing Measures	:	-

18.	Sector	:	Financial Services
	Subsector	:	-
	Obligations Concerned	:	Market Access
	Description	:	<p><u>Trade in Services</u></p> <p>Australia reserves the right to adopt or maintain any measure imposing non-discriminatory limitations on juridical form for juridical persons supplying financial services and constituted under the laws of Australia. For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in Australia.<sup>36</sup></p>
	Existing Measures	:	-

<sup>36</sup> This entry is not itself intended to affect, or otherwise limit, a choice by a financial service supplier of another Party between branches or subsidiaries.

19.	Sector	:	Financial Services
	Subsector	:	-
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)
	Description	:	<p><u>Trade in Services and Investment</u></p> <p>Australia reserves the right to adopt or maintain any measure with respect to the guarantee by government of government-owned entities whose operations include the provision of financial services, including guarantees related to the privatisation of such entities.</p>
	Existing Measures	:	-



20.	Sector	:	Financial Services
	Subsector	:	-
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Most-Favoured-Nation Treatment (Trade in Services and Investment)
	Description	:	<u>Trade in Services and Investment</u>  Australia reserves the right to adopt or maintain any measure regarding solicitation in its territory.
	Existing Measures	:	-

21.	Sector	:	Financial Services
	Subsector	:	Banking and other financial services (excluding insurance and insurance-related services)
	Obligations Concerned	:	National Treatment (Trade in Services and Investment)  Market Access  Most-Favoured-Nation Treatment (Trade in Services and Investment)  Senior Management and Boards of Directors
	Description	:	<p><u>Trade in Services and Investment</u></p> <p>Except as provided in this entry, Australia reserves the right to adopt or maintain any measure with respect to trade in services as defined in Article 1(t)(i), (t)(ii) and (t)(iv) (Definitions) of Chapter 8 (Trade in Services) for banking and other financial services.</p> <p>Subject to any limitations set out elsewhere in Australia's schedule to Part A or Part B, Australia shall permit a financial service supplier of another Party to supply, via cross-border supply as defined in Article 1(t)(i) (Definitions) and under terms and conditions that accord national treatment, the following services: provision and transfer of financial information and financial data processing as referred to in Article 2(b)(xv) (Definitions) of Annex 8A (Financial Services) and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in Article 2(b)(xvi) (Definitions) of Annex 8A (Financial Services).</p> <p>In relation to the following services Australia shall ensure a financial service supplier of another Party organised in the territory of that Party, upon obtaining an Australian financial services licence and any other necessary authorisations, or exemptions therefrom, in accordance with prescribed Australian laws and regulations, may undertake:</p> <p>(a) securities related transactions on a wholesale basis between and among financial institutions and other entities;</p>

		<p>(b) the following services to a collective investment scheme<sup>37</sup> located in Australia:<sup>38</sup></p> <ul style="list-style-type: none"> <li>i. investment advice; and</li> <li>ii. portfolio management services, excluding: <ul style="list-style-type: none"> <li>A. trustee services; and</li> <li>B. custodial services and execution services that are not related to managing a collective investment scheme.</li> </ul> </li> </ul> <p>Australia shall permit its residents to purchase in the territory of any other Party the financial services indicated in Article 2(b)(v) to (xvi) (Definitions) of Annex 8A (Financial Services).</p>
Existing Measures	:	-

<sup>37</sup> For the purposes of this entry, “collective investment scheme” means a “managed investment scheme” as defined under section 9 of the *Corporations Act 2001* (Cth), other than a managed investment scheme operated in contravention of subsection 601ED (5) of the *Corporations Act 2001* (Cth), or an entity that:

- (a) carries on a business of investment in securities, interests in land, or other investments; and
- (b) in the course of carrying on that business, invests funds subscribed, whether directly or indirectly, after an offer or invitation to the public (within the meaning of section 82 of the *Corporations Act 2001* (Cth)) made on terms that the funds subscribed would be invested.

<sup>38</sup> For greater certainty, Australia may require a collective investment scheme or a person of Australia involved in the operation of the scheme located in Australia to retain ultimate responsibility for the management of the collective investment scheme.

22.	Sector	:	Financial Services
	Subsector	:	Insurance and insurance-related services
	Obligations Concerned	:	<p>National Treatment (Trade in Services and Investment)</p> <p>Market Access</p> <p>Most-Favoured-Nation Treatment (Trade in Services and Investment)</p> <p>Senior Management and Boards of Directors</p>
	Description	:	<p><u>Trade in Services and Investment</u></p> <p>Except as provided in this entry, Australia reserves the right to adopt or maintain any measure with respect to trade in services as defined in Article 1(t)(i), (t)(ii) and (t)(iv) (Definitions) of Chapter 8 (Trade in Services) for insurance and insurance-related services.</p> <p>Australia shall permit a financial service supplier of another Party to supply, via cross-border supply as defined in Article 1(t)(i) (Definitions) of Chapter 8 (Trade in Services) and under terms and conditions that accord national treatment, whether as a principal, through an intermediary or as an intermediary, the following services:</p> <ul style="list-style-type: none"> <li>(a) insurance of risks relating to: <ul style="list-style-type: none"> <li>(i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising therefrom; and</li> <li>(ii) goods in international transit;</li> </ul> </li> <li>(b) reinsurance and retrocession and the services auxiliary to insurance as referred to in Article 2(b)(iv) (Definitions) of Annex 8A (Financial Services); and</li> <li>(c) insurance intermediation, such as brokerage and agency as referred to in Article 2(b)(iii) (Definitions) of Annex 8A (Financial Services).</li> </ul>

		Australia shall permit its residents to purchase in the territory of another Party the financial services indicated in Subparagraphs (a) to (c) of this entry.
	Existing Measures	: -

23.	Sector	:	Financial Services
	Subsector	:	-
	Obligations Concerned	:	Prohibition of Performance Requirements
	Description	:	<u>Investment</u> Australia reserves the right to adopt or maintain any measure with respect to financial services.
	Existing Measures	:	-

## APPENDIX A

### AUSTRALIA'S MARKET ACCESS COMMITMENTS – REGIONAL (STATE AND TERRITORY) LEVEL

For the purposes of this Appendix:

- the 1), 2) and 3) inscribed in the 'Limitations on Market Access' column refers to the modes for the supply of a service as defined in Article 1(t)(i) to (iii) (Definitions) of Chapter 8 (Trade in Services);
- \* means unbound due to lack of technical feasibility;
- \*\* indicates that the service specified constitutes only a part of the total range of activities covered by the Customs Procedure Code (CPC) concordance.

Unless otherwise stated all CPC references correspond to the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

<b>Modes of Supply: 1) Cross-border Supply 2) Consumption abroad 3) Commercial presence</b>	
<b>Sector or Subsector</b>	<b>Limitations on Market Access</b>
<b>1. BUSINESS SERVICES</b>	
<b>A. Professional Services</b>	
a) Legal services <sup>39</sup>	

<sup>39</sup> For the purposes of this commitment:

“legal advisory services” includes provision of advice to and consultation with clients in matters, including transactions, relationships and disputes, involving the application or interpretation of law; participation with or on behalf of clients in negotiations and other dealings with third parties in such matters; and preparation of documents governed in whole or in part by law, and the verification of documents of any kind for purposes of and in accordance with the requirements of law. Does not include advice, consultation and documentation services performed by service suppliers entrusted with public functions, such as notary services, or services provided by patent or trademarks attorneys.

“legal representational services” includes preparation of documents intended to be submitted to courts, administrative agencies, and other duly constituted official tribunals in matters involving the application and interpretation of law; and appearance before courts, administrative agencies, and other duly constituted official tribunals in matters involving the application and interpretation of the specified body of law. (Note: The inclusion of representational services before administrative agencies and other duly constituted official tribunals within the context of legal services does not necessarily mean that a licensed lawyer must supply such services in all cases. The precise scope of services subject to licensing requirements is subject to the discretion of the relevant regulatory authority.) Does not include documentation services performed by service suppliers entrusted with public functions, such as notary services, or services provided by patent or trademarks attorneys.

“legal arbitration, conciliation and mediation services” means preparation of documents to be submitted to, preparation for and appearance before, an arbitrator, conciliator or mediator in any dispute involving the application and interpretation of law. Does not include arbitration, conciliation and mediation services in disputes for which the law has no bearing which fall under services incidental to management consulting. As a sub-category, international legal arbitration, conciliation or mediation services refer to the same services when the dispute involves parties from two or more countries.

“domestic law (host country law)” means the law of Australia.

“foreign law” means the law of the territories of WTO Members and other countries other than the law of Australia.

- Legal advisory and representational services in domestic law (host-country law)	(1) None (2) None (3) None
- Legal advisory services in foreign law and international law and (in relation to foreign and international law only) legal arbitration and conciliation/mediation services.	(1) None (2) None (3) Natural persons practising foreign law may only join a local law firm as a consultant and may not enter into partnership with or employ local lawyers in South Australia
b) Accounting, auditing and bookkeeping services (CPC 862)	(1) None (2) None
c) Taxation services (CPC 863)	(3) None
d) Architectural services (CPC 8671)	
e) Engineering services (CPC 8672)	
f) Integrated engineering services (CPC 8673)	
g) Urban planning and landscape architectural services (CPC 8674)	
h) Dental services (CPC 93123)	
i) Veterinary services (CPC 932)	

“international law” includes law established by international treaties and conventions, as well as customary law.

For the purposes of these definitions:

“arbitration” is taken to mean a process in which the parties to a dispute present arguments and evidence to a dispute resolution practitioner (the arbitrator) who makes a determination.

“mediation” is taken to mean a process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the mediator), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted.

“conciliation” is taken to mean a process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the conciliator), identify the issues in dispute, develop options, consider alternatives and endeavour to reach an agreement. The conciliator may have an advisory role on the content of the dispute or the outcome of its resolution, but not a determinative role. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms, and may actively encourage the participants to reach an agreement.



<b>B. Computer and Related Services</b> (CPC 84) <sup>40</sup>	(1) None (2) None (3) None
<b>C. Research and Development (R&amp;D) Services</b>	
a) R&D Services on Natural Sciences (CPC 851) b) R&D Services on Social Sciences and Humanities (CPC 852) c) Interdisciplinary R&D Services (CPC 853)	(1) None (2) None (3) None
<b>D. Real Estate Services</b>	
a) Involving own or leased property (CPC 821) b) On a fee or contract basis (CPC 822)	(1) None, except commercial presence required (2) None, except commercial presence required (3) None
<b>E. Rental or Leasing Services without Operators</b>	
a) Relating to ships (CPC 83103**) <sup>41</sup> b) Relating to aircraft (CPC 83104) c) Relating to other transport equipment (CPC 83101-2, 83105) d) Relating to other machinery and equipment (CPC 83106-9)	(1) None (2) None (3) None

<sup>40</sup> For greater certainty, Entry 8 of this List applies to measures relating to content for computer and related services (CPC 84).

<sup>41</sup> For greater certainty, this excludes maritime cabotage services and offshore transport services in accordance with Entry 12 of this List.

<b>F. Other Business Services</b>	
a) Advertising services (CPC 87110, 87120**, 87190) <sup>42</sup>	(1) None (2) None
b) Market research and public opinion polling services (CPC 864)	(3) None
c) Management consulting services (CPC 865)	
d) Services related to management consulting (CPC 86601, 86609) <sup>43</sup>	
e) Technical testing and analysis services (CPC 8676)	
f) Services incidental to agriculture, hunting and forestry (CPC 8811**, 8812**, 8814**) <sup>44</sup>	
g) Services incidental to fishing (CPC 882**) <sup>45</sup>	
h) Services incidental to mining and site preparation work for mining (CPC 883, 5115)	
i) Services incidental to manufacturing (CPC 884, 885, except 88442)	
j) Services incidental to energy distribution (CPC 887**) <sup>46</sup>	
k) Placement and supply services of personnel (CPC 872)	(1) Unbound (2) None (3) None

<sup>42</sup> Covers services by advertising agencies in creating and placing advertising in periodicals, newspapers, radio and television for clients; outdoor advertising; media representation i.e. sale of time and space for various media; distribution and delivery of advertising material or samples. For greater certainty, this does not include production, broadcast or screening of advertisements for radio, television or cinema in accordance with Entry 8 of this List.

<sup>43</sup> Excludes arbitration and conciliation services.

<sup>44</sup> Provision of advice and guidance relating to crop and livestock management on consultancy basis. Includes specialised consultancy services only, related to forestry activities, timber evaluation, forest management or planning. Does not include logging.

<sup>45</sup> Consists of specialised consultancy services only, related to marine or freshwater fisheries, fish hatchery services. Does not include fishing.

<sup>46</sup> Covers consultancy services related to the transmission and distribution on a fee or contract basis of electricity, gaseous fuels and steam and hot water to household, industrial, commercial and other users.

l) Investigation and security (CPC 873)	(1) None
m) Related scientific and technical consulting services (CPC 8675)	(2) None
n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633, 8861-8866)	(3) None
o) Building-cleaning services (CPC 874)	(1) Unbound*
	(2) None
	(3) None
p) Photographic services (CPC 875)	(1) None
s) Convention services (CPC 87909**) <sup>47</sup>	(2) None
t) Other:	(3) None
- Telephone answering services (CPC 87903)	
- Duplicating services (CPC 87904)	
- Translation and interpretation services (CPC 87905)	
- Mailing list compilation and mailing services (CPC 87906)	
- Interior design (CPC 87907) <sup>48</sup>	

<sup>47</sup> Activities of establishments engaged in provision of planning, organising, managing and marketing services for conventions and similar events (including catering and beverage services).

<sup>48</sup> Specialised consultancy services related to the post-construction design and fitting out of interior living and working spaces. Includes purchase of necessary goods.

## 2. COMMUNICATION SERVICES

### C. Telecommunications Services

Covers the following subsectors from the Services Sectoral Classification List used by the WTO Secretariat in MTN.GNS/W/120 dated 10 July 1991 and related CPC codes (7521, 7522, 7523, 7529\*\*):

- |  |     |      |
|--|-----|------|
| a) Voice telephone services                    | (1) | None |
| b) Packet-switched data transmission services  | (2) | None |
| c) Circuit-switched data transmission services | (3) | None |
| d) Telex services                              |     |      |
| e) Telegraph services                          |     |      |
| f) Facsimile services                          |     |      |
| g) Private leased circuit services             |     |      |
| o) Other:                                      |     |      |
| - Digital Cellular services                    |     |      |
| - Paging services                              |     |      |
| - Personal Communications Services             |     |      |
| - Trunked Radio System Services                |     |      |
| - Mobile Data Services                         |     |      |

h) Electronic mail (CPC 7523**)	(1) None
i) Voice mail (CPC 7523**)	(2) None
j) On-line information and database retrieval (CPC 7523**)	(3) None
k) Electronic data interchange (EDI) (CPC 7523**)	
l) Enhanced/value-added facsimile services, including store and retrieve (CPC 7523**)	
m) Code and protocol conversion (CPC 7523**)	
<b>D. Audiovisual services</b>	
e) Sound recording services <sup>49</sup>	(1) None, except unbound in relation to measures relating to Australian content
f) Other – audiovisual post-production services <sup>50</sup>	(2) Unbound
	(3) Unbound

<sup>49</sup> Covers sound recording services, live recording services and sound recording originals. Does not include reproduction of audio recordings, or providing a sound recording studio or sound recording equipment.

<sup>50</sup> Covers audiovisual editing services, transfers and duplication of masters services, colour correction and digital restoration services, visual effects services, animation services, captioning, titling and subtitling services, sound editing and design services, and other audiovisual post-production services such as format conversion and compression services.

<b>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</b>	
<b>A. General construction work for buildings (CPC 512)</b>	(1) Unbound* (2) None
<b>B. General construction work for civil engineering (CPC 513)</b>	(3) None
<b>C. Installation and assembly work (CPC 514, 516)</b>	
<b>D. Building completion and finishing work (CPC 517)</b>	
<b>E. Other:</b>	
- Pre-erection work at construction sites (CPC 511 excluding site preparation for mining – CPC 5115)	
- Special trade construction work (CPC 515)	
- Renting services related to equipment for construction or demolition of buildings or civil engineering works, with operator (CPC 518)	

<b>4. DISTRIBUTION SERVICES</b>	
<b>A. Commission agents' services (CPC 62113-62118)<sup>51</sup></b>	(1) None (2) None
<b>B. Wholesale trade services (CPC 6223-6228)<sup>52</sup></b>	(3) None
<b>C. Retailing services (CPC 631, 63212, 6322-5, 6329, 61112, 6113, 6121)<sup>53</sup></b>	(1) Unbound, except for mail order (2) None (3) None
<b>D. Franchising (CPC 8929)</b>	(1) None (2) None (3) None
<b>5. EDUCATIONAL SERVICES</b>	
<b>B. Secondary education services (CPC 922**)<sup>54</sup></b>	(1) None
<b>C. Higher education services (CPC 923**)<sup>55</sup></b>	(2) None
<b>E. Other education services (CPC 929**)<sup>56</sup></b>	(3) None

<sup>51</sup> For greater certainty, this excludes tobacco and alcoholic beverages, and excludes firearms in accordance with Entry 9 of this List.

<sup>52</sup> For greater certainty, this excludes wholesale trade services of unmanufactured tobacco, tobacco products and alcoholic beverages, and excludes firearms in accordance with Entry 9 of this List.

<sup>53</sup> Australia's commitments in relation to these services extend to cover the following services not listed in relevant CPC classifications: inventory management of goods, assembling, sorting and grading of goods, breaking bulk, re-distribution and delivery services for retailing. Does not cover dispensing of pharmaceuticals. For greater certainty, this excludes retailing services of alcoholic beverages, tobacco products and firearms in accordance with Entry 9 of this List.

<sup>54</sup> Covers general as well as technical and vocational education at the secondary level in private institutions.

<sup>55</sup> Covers provision of private tertiary education services including at university level.

<sup>56</sup> Covers tuition and testing in English and other languages. Tuition in cuisine and traditional therapies (including massage, acupuncture), music, dance and martial arts.

<b>6. ENVIRONMENTAL SERVICES<sup>57</sup></b>	
<b>A. Wastewater management (CPC 9401)<sup>58</sup></b>	(1) None
	(2) None
<b>B. Waste management (CPC 9402, 9403)<sup>59</sup></b>	(3) None
<b>D. Other:</b>	
- Protection of ambient air and climate (CPC 9404) <sup>60</sup>	
- Remediation and clean-up of soil and water (CPC 9406**) <sup>61</sup>	
- Noise and vibration abatement (CPC 9405) <sup>62</sup>	
- Protection of biodiversity and landscape (CPC 9406**) <sup>63</sup>	
- Other environmental and ancillary services (CPC 9409) <sup>64</sup>	

<sup>57</sup> Australia's commitments on environmental services exclude the provision of water for human use, including water collection, purification and distribution through mains.

<sup>58</sup> This covers removal, treatment and disposal of household, commercial and industrial sewage and other waste waters including tank emptying and cleaning, monitoring, removal and treatment of solid wastes.

<sup>59</sup> This covers hazardous and non-hazardous waste collection, treatment and disposal (including incineration, composting and landfill); linen sanitation and treatment and clinical waste disposal services supplied to hospitals; sweeping and snow removal, and other sanitation services.

<sup>60</sup> This covers services at power stations or industrial complexes to remove air pollutants; monitoring of mobile emissions and implementation of control systems or reduction programmes.

<sup>61</sup> Australia's commitments under CPC 9406\*\* combine to cover the entirety of CPC 9406 services. This covers cleaning-up systems in situ or mobile, emergency response, clean-up and longer-term abatement of spills and natural disasters; and rehabilitation programmes (e.g. recovery of mining sites) including monitoring.

<sup>62</sup> This covers monitoring programmes, and installation of noise reduction systems and screens.

<sup>63</sup> Australia's commitments under items CPC 9406\*\* combine to cover the entirety of CPC 9406 services. This covers ecology and habitat protection and promotion of forests and promoting sustainable forestry.

<sup>64</sup> This covers other environment protection services, including services related to environmental impact assessment.



<b>8. HEALTH RELATED AND SOCIAL SERVICES</b>	
<b>A. Hospital services</b>	(1) Unbound*
- Private hospital services (CPC 93110**) <sup>65</sup>	(2) None
	(3) None, except that measures in the form of economic needs tests, limitations on the number of services operations and types of legal entity may apply
<b>B. Other human health services</b>	
- Other human health services (CPC 93199**) <sup>66</sup>	(1) Unbound
	(2) None
	(3) None
- Ayurveda, naturopathy, Unani, Siddha and homeopathy services	(1) None
	(2) None
	(3) None
<b>9. TOURISM AND TRAVEL RELATED SERVICES</b>	
<b>A. Hotels and restaurants (CPC 641, 642, 643)</b>	(1) Unbound*
	(2) None
	(3) None
<b>B. Travel agencies and tour operator services (CPC 7471)</b>	(1) None, except commercial presence required
	(2) None
	(3) None
<b>C. Tourist guide services (CPC 7472)</b>	(1) None
	(2) None
	(3) None

<sup>65</sup> Covers delivery of services under the direction of registered medical doctors to patients in hospital institutions that are not funded, owned or operated by or on behalf of the federal government or a State or Territory government in Australia.

<sup>66</sup> Covers podiatry and chiropody services. Includes podiatry services carried out in health clinics, and in residential health facilities other than hospitals, as well as in own consulting rooms, patients' homes or elsewhere.

<b>10. RECREATIONAL, CULTURAL AND SPORTING SERVICES</b>	
<b>B. News agency services (CPC 962)</b>	(1) None
<b>D. Sporting and other recreational services</b>	(2) None
- Sporting services (CPC 9641)	(3) None
- Other recreational services (CPC 96491 and 96499) <sup>67</sup>	
<b>11. TRANSPORT SERVICES</b>	
<b>A. Maritime transport services</b>	
International transport (freight and passengers) (CPC 7211 and 7212) <sup>68</sup>	(1) Liner Shipping, Bulk, tramp and other international shipping, including international passenger transportation: None
	(2) None
	(3) a) Establishment of registered company for the purpose of operating a fleet under the national flag of Australia: None
	b) Other forms of commercial presence for the supply of international maritime transport services (as defined in Note on Maritime Transport Services): None
<u>Maritime auxiliary services</u>	
- International rental of vessels with crew <sup>69</sup> (as defined in Note on Maritime Transport Services)	(1) None
	(2) None
	(3) None

<sup>67</sup> Covers recreation park and beach services, and yoga services.

<sup>68</sup> For greater certainty, this excludes maritime cabotage and offshore transport services in accordance with Entry 12 of this List.

<sup>69</sup> For greater certainty, this excludes maritime cabotage and offshore transport services in accordance with Entry 12 of this List.

- Maritime cargo handling services (as described in Note on Maritime Transport Services)	(1) Unbound* (2) None (3) None, except licences or concessions are granted by port authorities. Public utility concession or licensing procedures may apply in the case of the occupation of the public domain for the conduct of these activities.
- Storage and warehousing services (CPC 742)	(1) Unbound* (2) None (3) None
- Maritime freight forwarding services (as defined in Note on Maritime Transport Services)	(1) None (2) None (3) None
- Customs clearance services (as described in Note on Maritime Transport Services)	(1) Unbound* (2) None (3) None
- Pre-shipment inspection (as defined in Note on Maritime Transport Services) - Maritime agency services (as described in Note on Maritime Transport Services)	(1) None (2) None (3) None
<b>C. Air Transport Services</b>	
d) Aircraft repair and maintenance services (CPC 8868**) <sup>70</sup>	(1) Unbound* (2) None (3) None

<sup>70</sup> This covers establishments mainly engaged in periodic maintenance and repair (routine and emergency) of airframes (including wings, doors, control surfaces) avionics, engines and engine components, hydraulics, pressurisation and electrical systems and landing gear. Includes painting, other fuselage surface treatments and repair of flight-deck (and other) transparencies. Further includes rotary and glider aircraft.

- Ground handling services <sup>71</sup>	(1) Unbound* (2) None (3) None
- Airport operation services <sup>72</sup>	(1) Unbound* (2) None (3) None
- Selling and marketing of air transport services <sup>73</sup>	(1) None, except: a) Commercial presence required for services covered by Travel agencies and tour operator services (CPC 7471) Retailing services (CPC 631, 63212, 6322-6325, 6329, 61112, 6113, 6121) are unbound except for mail order (2) None (3) None
- Computer reservation systems (CPC 7523**) <sup>74</sup>	(1) None (2) None (3) None

<sup>71</sup> Covers the supply at an airport, on a fee or contract basis, of the following: airline representation, administration and supervision; passenger handling; baggage handling; ramp services; catering (except the preparation of the food); air cargo and mail handling; fuelling of an aircraft; aircraft servicing and cleaning; surface transport; and flight operations, crew administration and flight planning. Ground handling services do not include self-handling; security; line maintenance; aircraft repair and maintenance; or management or operation of essential centralised airport infrastructure such as de-icing facilities, fuel distribution systems, baggage handling systems, and fixed intra-airport transport systems.

<sup>72</sup> Covers the supply of air terminal, airfield and other airport infrastructure operation services on a fee or contract basis. Airport operation services do not include air navigation services.

<sup>73</sup> This commitment confirms, without extending, the application to air transport services of the specific commitments made elsewhere in this Appendix in the following sections, subject to all limitations, exceptions and qualifications set out in those sections: Travel agencies and tour operator services (CPC7471); Market research and public opinion polling services (CPC 864); Advertising services (CPC 87110, 87120\*\*); Distribution: Commission agents' services (CPC 62113-62118); Wholesale trade services (CPC 6223-6228); Retailing services (CPC 631, 63212, 6322-6325, 6329, 61112, 6113, 6121); and Franchising (CPC 8929). For the purposes of this commitment, "selling and marketing of air transport services" is defined as in Article 8.1(m) (Definitions), except that the aspects of 'marketing' covered by this commitment are limited to market research, advertising and distribution.

<sup>74</sup> Activities of establishments engaged in providing and maintaining computer reservation to other enterprises engaged in the provision of travel agency services, including transport and accommodation booking, tour and travel wholesaling/retailing – to establishments engaged in providing reservation services (such as travel agencies). Computer reservation systems services related to air carriers include the provision of information on air carrier schedules, space availability and tariffs.

<b>E. Rail Transport Services</b>	
b) Freight transportation (CPC 7112);	(1) None
c) Pushing and towing services (CPC 7113); and	(2) None
e) Supporting services for rail transport services (CPC743).	(3) Below track: most rail-track networks in Australia are government-owned although much is leased to private operators. There are no restrictions on the right to establish new networks but access to public land may not be guaranteed.  Above track (rail transport services (such as trains) that operate over the rail-track infrastructure): none except that access to rail infrastructure is allocated under pro-competitive principles for safety, efficiency and the long term interests of users.

<b>F. Road Transport Services</b>	
a) Passenger transportation (CPC 71213, 71214, 7122) <sup>75</sup>	(1) Unbound (2) None (3) None
b) Freight transportation (CPC 7123)	(1) None
c) Rental of commercial vehicles with operator (CPC 7124)	(2) None (3) None
<b>G. Pipeline Transport Services</b>	
a) Transportation of fuels (CPC 7131)	(1) None
b) Transportation of other goods (CPC 7139)	(2) None (3) None
<b>H. Services auxiliary to all modes of transport</b>	
a) Cargo-handling services in relation to rail, road and air transport only (CPC 741**) <sup>76</sup>	(1) Unbound* (2) None (3) None
b) Storage and warehouse services (CPC 742 excluding maritime) <sup>77</sup>	
c) Freight transport agency services (CPC 748 excluding maritime) <sup>78</sup>	(1) None (2) None (3) None
d) Other supporting and auxiliary transport services (CPC 749 excluding maritime) <sup>79</sup>	

<sup>75</sup> Does not include regular urban bus services.

<sup>76</sup> Note also that maritime cargo handling services are dealt with under 'Maritime Services'.

<sup>77</sup> Australia's commitment in relation to these services extends to cover the following services in addition to those listed in CPC 742: distribution centre services and materials handling and equipment services such as container station and depot services (excluding maritime).

<sup>78</sup> Australia's commitment in relation to these services extends to cover the following services in addition to those listed in CPC 748: customs agency services and load scheduling services (excluding maritime).

<sup>79</sup> Australia's commitment in relation to these services extends to cover the following services in addition to those listed under CPC 749: container leasing and rental services (excluding maritime).

## NOTE ON MARITIME TRANSPORT SERVICES

### Definitions

1. Multimodal Transport Operator: the person on whose behalf the bill of lading/multimodal document evidencing a contract of multimodal carriage of goods is issued and who is responsible for the carriage of goods pursuant to the contract of carriage.
2. Other Forms of Commercial Presence for the Supply of International Maritime Transport Services: for the purposes of this Appendix, means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. This commitment shall not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery.

These activities include:

- marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
  - the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inland transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated service;
  - the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
  - the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the Annex on Telecommunications of GATS);
  - the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to Australia's commitments listed in Annex 4 (Schedule of Specific Commitments on the Movement of Natural Persons)) with any locally established shipping agency; and
  - acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.
3. International Rental of Vessels with Crew: rental or leasing services of all types of sea-going vessels with crew (such as tankers, bulk dry cargo vessels, cargo and freight vessels) for the purpose of international trade.
  4. Maritime Cargo Handling Services: activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring of terminal operator companies. The activities covered include the organisation and supervision of: the loading or discharging of cargo to or from a ship; the lashing

or unlashing of cargo; and, the reception or delivery and safekeeping of cargoes in the wharf area before shipment or after discharge.

The organisation and supervision includes the arrangements for (1) engaging skilled labour (dockers), (2) using all the necessary equipment for on-board or shore use and the appropriate storage space, whether by ownership, rental or otherwise, (3) the checking of parcels and markings, the weighing and measuring of cargo (upon request of the owner), and (4) the administrative duties as well as the responsibility related to the services.

Container terminal operators can furthermore be appointed for stuffing/stripping containers and e.g. the survey and supply of electricity to containers.

5. Maritime Freight Forwarding Services: the organisation and monitoring of shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information.
6. Customs Clearance Services: activities consisting in carrying out on behalf of another Party customs formalities concerning import, export or through-transport of cargoes, whether this is the main activity of the service provider or a usual complement of its main activity.
7. Pre-shipment Inspection: all services performed on a fee or contract basis involved in the verification of the quality, quantity, price (including currency exchange rate and financial terms), or the customs classification of goods to be exported. Does not include customs or quarantine inspection.
8. Maritime Agency Services: activities consisting in representing, within a given geographic area, as an agent, the business interests of one or more shipping line or shipping companies, for the following purposes:
  - marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies; acquisition and resale of the necessary related services, preparation of documentation, and provision of business information; and
  - acting on behalf of the companies organising the call of the ship or taking over cargoes when required.



## LIST C

### ADDITIONAL COMMITMENTS – CHAPTER 8 (TRADE IN SERVICES) AUSTRALIA

This List C sets out, pursuant to Article 6 (Additional Commitments), Australia's additional commitments with respect to measures affecting trade in services, not subject to scheduling under Article 4 (National Treatment), Article 5 (Market Access), Article 9 (Most-Favoured Nation Treatment) or Article 10 (Local Presence).

#### **Description of additional commitment**

##### Sector: Maritime Transport Services

Services at Australian ports are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions. The following is an indicative, but not exhaustive, list of services at Australian ports: pilotage, towing and tug assistance; provisioning, fuelling and watering; garbage collection and ballast waste disposal; Port Captain's services; navigation aids; shore-based operational services essential to ship operations, including communications, water and electrical supplies; emergency repair facilities; anchorage, berth and berthing services.

Where road, rail and related auxiliary services are not fully covered in Appendix A (Australia's Market Access Commitments – Regional (State and Territory) Level) of List B a multimodal transport operator shall have the ability, on reasonable and non-discriminatory terms and conditions, to rent, hire or charter trucks, railway carriages, ships and related equipment for the purpose of onward forwarding of international cargoes carried by sea, or have access to and use of these forms of transport services for the purpose of providing multimodal transport services.