

ANNEX I

EXPLANATORY NOTES

1. The Schedule of a Party to this Annex sets out, in accordance with Article 9.7 (Non-Conforming Measures) and Article 14.14 (Non-Conforming Measures), a Party's existing measures that are not subject to some or all of the obligations imposed by:
 - (a) Article 9.3 (National Treatment) or Article 14.4 (National Treatment);
 - (b) Article 9.4 (Most-Favoured-Nation Treatment) or Article 14.5 (Most-Favoured-Nation Treatment);
 - (c) Article 9.5 (Market Access);
 - (d) Article 9.6 (Local Presence)
 - (e) Article 14.6 (Prohibition of Performance Requirements); or
 - (f) Article 14.10 (Senior Management and Boards of Directors);
2. Each Schedule entry sets out the following elements:
 - (a) **Sector** refers to the sector for which the entry is made;
 - (b) **Sub-Sector**, where referenced, refers to the specific sub-sector for which the entry is made;
 - (c) **Industry Classification**, where referenced, refers to the activity covered by the non-conforming measure, according to the provisional CPC codes as used in 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);
 - (d) **Obligations Concerned** specifies the obligations referred to in paragraph 1 that, in accordance with Article 14.14 (Non-Conforming Measures) and Article 9.7 (Non-Conforming Measures), do not apply to the listed measure(s);
 - (e) **Level of Government** indicates the level of government maintaining the listed measures;
 - (f) **Source of Measure** identifies the laws, regulations or other measures 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 this Agreement, and

(ii) includes any subordinate measure adopted or maintained under the authority of, and consistent with, the measure; and

(g) **Description** sets out the non-conforming measure for which the entry is made.

3. A measure that is reserved against Article 9.6 (Local Presence) need not be reserved against Article 9.3 (National Treatment).

4. Article 14.6 (Prohibition of Performance Requirements) and Article 14.10 (Senior Management and Board of Directors) are separate disciplines to Article 14.4 (National Treatment) and a measure that is only inconsistent with Article 14.6 (Prohibition of Performance Requirements) or Article 14.10 (Senior Management and Board of Directors) need not be reserved against Article 14.4 (National Treatment).

5. In accordance with Article 9.7 (Non-Conforming Measures) and Article 14.14 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming measures identified in the **description** element of that entry.

ANNEX I

SCHEDULE OF AUSTRALIA

INTRODUCTORY NOTES

1. For greater certainty, the **Description** element of each of Australia's entries in its Schedule is to be interpreted in accordance with the relevant cited sources of the non-conforming measures.
2. 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 9 (Trade in Services), Chapter 10 (Financial Services), Chapter 14 (Investment), this Section and the Schedule below.
3. Australia reserves the right to adopt or maintain non-discriminatory limitations concerning admission to the market of new financial services where such measures are required to achieve prudential objectives. Australia may determine the institutional and juridical form through which a new financial service may be supplied and may require authorisation for the supply of the service. Where authorisation to supply a new financial service is required, the authorisation may only be refused for prudential reasons.

1. Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Senior Management and Boards of Directors (Article 14.10)
Level of Government:	Central
Source of Measure:	Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy, the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth) (FATA); <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 Regulation 2015</i> (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements.
Description:	<p><u>Trade in Services and Investment</u>¹</p> <p>A. The following investments² are subject to approval by the Australian Government and may also require notification³ to the Australian Government:</p> <ul style="list-style-type: none"> (a) a proposed investment by a 'foreign person'* in an entity or Australian business valued above \$A 266 million[†]; (b) a proposed direct investment by a 'foreign government investor'⁴ of any interest regardless of value; (c) a proposed investment by a foreign person* of 5 per cent or more in the media sector, regardless of the value of the investment; (d) a proposed acquisition by a foreign person* of an interest in developed commercial land⁵ where the value of the interest is more than \$A 266 million[†], unless the land meets the

¹ For greater certainty, the terms in this entry should be interpreted in accordance with Australia's Foreign Investment Framework as at the date of entry into force of this Agreement.

² "Investment" means activities covered by Part II of the *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.

³ The *Foreign Acquisitions and Takeovers Fees Imposition Act 2015* (Cth) and the *Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015* (Cth) sets the fees for foreign investment applications and notices. Fees are indexed annually on 1 July.

⁴ 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).

⁵ 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).

conditions for the lower developed commercial land threshold of \$A 58 million^{†6}.

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 or notification requirements apply from the lowest applicable threshold.

Separate or additional requirements may apply to measures subject to other Annex I entries and to sectors, sub-sectors or activities subject to Annex II.

B. The acquisition of a stake in an existing 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 control⁷ of an existing financial sector company, may be refused, or be subject to certain conditions⁸.

* 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).

† This is the figure as at 1 January 2019. To be indexed annually on 1 January.

⁶ The conditions for the lower threshold are those set out in *Foreign Acquisitions and Takeovers Act 1975* (Cth) and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

⁷ “Unacceptable shareholding situation” and “practical control” as defined in the *Financial Sector (Shareholdings) Act 1998* (Cth).

⁸ Ministerial statements on foreign investment policy including the Treasurer’s Press Release No. 28 of 9 April 1997.

2. Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Local Presence (Article 9.6) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)
Level of Government:	Regional
Source of Measure:	All existing non-conforming measures at the regional level of government.
Description:	<u>Trade in Services and Investment</u> All existing non-conforming measures at the regional level of government.

3. Sector: All Sectors

**Obligations
Concerned:** National Treatment (Article 9.3 and Article 14.4)
Senior Management and Boards of Directors (Article 14.10)

**Level of
Government:** Central

**Source of
Measure:** *Corporations Act 2001* (Cth)
Corporations Regulations 2001 (Cth)

Description: Trade in Services and Investment

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.

4. Sector: Professional Services

Obligations National Treatment (Article 9.3)
Concerned: Most-Favoured-Nation Treatment (Article 9.4)

Level of Central
Government:

Source of *Patents Act 1990* (Cth)
Measure: *Patents Regulations 1991* (Cth)

Description: Trade in Services

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.

5. Sector: Professional Services

**Obligations
Concerned:** National Treatment (Article 9.3)
Most-Favoured-Nation Treatment (Article 9.4)

**Level of
Government:** Central

**Source of
Measure:** *Migration Act 1958* (Cth)

Description: Trade in Services

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.

6. Sector: Professional Services

**Obligations
Concerned:** Local Presence (Article 9.6)

**Level of
Government:** Central

**Source of
Measure:** *Corporations Act 2001* (Cth)

Description: Trade in Services

A person who is not ordinarily resident in Australia may be refused registration as a company auditor or liquidator.

At least one partner in a firm providing auditing services must be a registered company auditor who is ordinarily resident in Australia.

7. Sector: Professional Services

**Obligations
Concerned:** Local Presence (Article 9.6)

**Level of
Government:** Central

**Source of
Measure:** *Customs Act 1901* (Cth)

Description: Trade in Services

To act as a customs broker in Australia, service suppliers must supply the service in and from Australia.

8. Sector:	Fishing and services incidental to fishing
Obligations Concerned:	National Treatment (Article 9.3 and Article 14.4)
Level of Government:	Central
Source of Measure:	<i>Fisheries Management Act 1991</i> (Cth) <i>Foreign Fishing Licences Levy Act 1991</i> (Cth)

Description: Trade in Services and Investment

Foreign fishing vessels⁹ 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.

Where foreign fishing vessels are authorised they may be subject to a levy¹⁰.

⁹ 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).

¹⁰ The levy charged will be in accordance with the *Foreign Fishing Licences Levy Act 1991* (Cth) or any amendments thereto.

9. Sector:	Communication Services
Obligations Concerned:	National Treatment (Article 9.3 and Article 14.4) Senior Management and Boards of Directors (Article 14.10)
Level of Government:	Central
Source of Measure:	<i>Telstra Corporation Act 1991</i> (Cth)
Description:	<p><u>Trade in Services and Investment</u></p> <p>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 5 per cent of shares.</p> <p>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.</p>

10. Sector: Health Services

**Obligations
Concerned:** National Treatment (Article 9.3 and Article 14.4)
Senior Management and Boards of Directors (Article 14.10)

**Level of
Government:** Central

**Source of
Measure:** *Commonwealth Serum Laboratories Act 1961* (Cth)

Description: Trade in Services and Investment

The votes attached to significant foreign shareholdings¹¹ 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.

¹¹ 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 5 per cent of the voting shares in CSL.

11. Sector: Transport Services

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4)
Local Presence (Article 9.6)

Level of Government: Central

Source of Measure: *Competition and Consumer Act 2010* (Cth)

Description: Trade in Services and Investment

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 person¹² 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.

¹² For the purposes of this entry, 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

**Obligations
Concerned:** National Treatment (Article 14.4)
Senior Management and Boards of Directors (Article 14.10)

**Level of
Government:** Central

**Source of
Measure:** *Air Navigation Act 1920* (Cth)
Ministerial Statements

Description: Investment

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:

- at least two-thirds of the Board members must be Australian citizens;
- the Chairperson of the Board must be an Australian citizen;
- the airline's head office must be in Australia; and
- the airline's operational base must be in Australia.

13. Sector: Transport Services

**Obligations
Concerned:** National Treatment (Article 14.4)
Senior Management and Boards of Directors (Article 14.10)

**Level of
Government:** Central

**Source of
Measure:** *Qantas Sale Act 1992* (Cth)

Description: Investment

Total foreign ownership of Qantas Airways Ltd is restricted to a maximum of 49 per cent.

In addition:

- the head office of Qantas must always be located in Australia;
- the majority of Qantas' operational facilities must be located in Australia;
- at all times, at least two thirds of the directors of Qantas must be Australian citizens;
- at a meeting of the board of directors of Qantas, the director presiding at the meeting (however described) must be an Australian citizen; and
- Qantas is prohibited from taking any action to become incorporated outside Australia.

14. Sector: Financial Services

**Obligations
Concerned:** National Treatment (Article 9.3 and Article 14.4)
Market Access (Article 9.5)

**Level of
Government:** Central

**Source of
Measure:** *Banking Act 1959 (Cth)*
Payment Systems (Regulation) Act 1998 (Cth)

Description: Trade in Services and Investment

To undertake banking business in Australia an entity must be a body corporate and authorised as an authorised deposit-taking institution (ADI).

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.

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 \$A 250,000.

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.

15. Sector:	Financial Services
Obligations Concerned:	National Treatment (Article 9.3 and Article 14.4)
Level of Government:	Central
Source of Measure:	<i>Commonwealth Banks Act 1959</i> (Cth)
Description:	<p><u>Trade in Services and Investment</u></p> <p>Liabilities of the Commonwealth Bank, previously Commonwealth Government-owned, are covered by transitional guarantee arrangements.</p>

16. Sector:	Financial Services
Sub-sector:	Life insurance services
Obligations Concerned:	National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Market Access (Article 9.5)
Level of Government:	Central
Source of Measure:	<i>Life Insurance Act 1995</i> (Cth)
Description:	<u>Trade in Services and Investment</u> Approval of non-resident life insurers is restricted to subsidiaries incorporated under Australian law.

ANNEX II

EXPLANATORY NOTES

1. The Schedule of a Party to this Annex sets out, in accordance with Article 9.7 (Non-Conforming Measures) and Article 14.14 (Non-Conforming Measures), the specific sectors, sub-sectors or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 9.3 (National Treatment) or Article 14.4 (National Treatment);
- (b) Article 9.4 (Most-Favoured-Nation Treatment) or Article 14.5 (Most-Favoured-Nation Treatment);
- (c) Article 9.5 (Market Access);
- (d) Article 9.6 (Local Presence);
- (e) Article 14.6 (Prohibition of Performance Requirements);
- (f) Article 14.10 (Senior Management and Boards of Directors);

2. Each Schedule entry sets out the following elements:

- (a) **Sector** refers to the sector for which the entry is made;
- (b) **Sub-Sector**, where referenced, refers to the specific sub-sector for which the entry is made;
- (c) **Industry Classification**, where referenced, refers to the activity covered by the non-conforming measure, according to the provisional CPC codes as used in 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);
- (d) **Obligations Concerned** specifies the obligations referred to in paragraph 1 that, in accordance with Article 14.14 (Non-Conforming Measures) and Article 9.7 (Non-Conforming Measures), do not apply to the sectors, sub-sectors or activities listed in the entry;
- (e) **Description** sets out the scope or nature of the sectors, sub-sectors or activities covered by the entry to which the reservation applies; and

(f) **Existing Measures**, where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, sub-sectors or activities covered by the entry.

3. In accordance with Article 9.7 (Non-Conforming Measures) and Article 14.14 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, sub-sectors and activities identified in the **Description** element of that entry.

ANNEX II

SCHEDULE OF AUSTRALIA

INTRODUCTORY NOTES

1. For greater certainty, where Australia has more than one entry in its Schedule to Annex II 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.
2. 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 9 (Trade in Services), Chapter 10 (Financial Services), Chapter 14 (Investment), this Section and the Schedule below.
3. Australia reserves the right to adopt or maintain non-discriminatory limitations concerning admission to the market of new financial services where such measures are required to achieve prudential objectives. Australia may determine the institutional and juridical form through which a new financial service may be supplied and may require authorisation for the supply of the service. Where authorisation to supply a new financial service is required, the authorisation may only be refused for prudential reasons.
4. For the avoidance of doubt, in relation to education services, nothing in Chapter 9 (Trade in Services) or Chapter 14 (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 programs, 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
Obligations Concerned:	National Treatment (Article 9.3 and Article 14.4) Prohibition of Performance Requirements (Article 14.6)
Description:	<u>Trade in Services and Investment</u> ¹ Australia reserves the right to adopt or maintain any measure with respect to a proposed acquisition by a foreign person ² of an interest in Australian land ³ , 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, the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth) (FATA); <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 Regulation 2015</i> (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements.

¹ The terms in this entry should be interpreted in accordance with Australia's Foreign Investment Framework as at the date of entry into force of this Agreement.

² 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).

³ 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
Obligations Concerned:	National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)
Description:	<u>Trade in Services and Investment</u> ⁴ Australia reserves the right to adopt or maintain any measure with respect to the proposed acquisition by a foreign person ⁵ of an interest in agricultural land ⁶ where the cumulative value of agricultural land owned by the foreign person alone or together with associates, including the proposed acquisition, is above \$A 15 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 where the cumulative value of the interest held by the foreign person in that agribusiness ⁷ , alone or together with associates, including the proposed acquisition, is above \$A 55 million.
Existing Measures:	Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy, the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth) (FATA); <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 Regulation 2015</i> (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements.

⁴ The terms in this entry should be interpreted in accordance with Australia's Foreign Investment Framework as at the date of entry into force of this Agreement.

⁵ 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).

⁶ 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).

⁷ 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).

3. Sector:	All Sectors
Obligations Concerned:	<p>National Treatment (Article 9.3 and Article 14.4)</p> <p>Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5)</p> <p>Market Access (Article 9.5)</p> <p>Local Presence (Article 9.6)</p> <p>Prohibition of Performance Requirements (Article 14.6)</p> <p>Senior Management and Boards of Directors (Article 14.10)</p>
Description:	<p><u>Trade in Services and Investment</u></p> <p>Australia reserves the right to adopt or maintain any measure that it considers necessary for the protection of its essential security interests.</p>
Existing Measures:	<p>Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy, the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth) (FATA); <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 Regulation 2015</i> (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements.</p>

4. Sector: All Sectors

**Obligations
Concerned:** Market Access (Article 9.5)

Description: Trade in Services

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 12 (Movement of Natural Persons), that is not inconsistent with Australia's obligations under Article XVI of GATS.

**Existing
Measures:**

5. Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 9.3 and Article 14.4) Market Access (Article 9.5) Local Presence (Article 9.6) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)
Description:	<p><u>Trade in Services and Investment</u></p> <p>Australia reserves the right to adopt or maintain any measure according preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation in relation to acquisition, establishment or operation of any commercial or industrial undertaking in the service sector.</p> <p>Australia reserves the right to adopt or maintain any measure with respect to investment that accords preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation.</p> <p>For the purpose of this entry, an Indigenous person means a person of the Aboriginal and Torres Strait Islander peoples.</p>
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

**Obligations
Concerned:** National Treatment (Article 9.3 and Article 14.4)
Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5)
Market Access (Article 9.5)
Prohibition of Performance Requirements (Article 14.6)
Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

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 that the Agreement comes into force; and
- (b) the privatisation of government owned entities or assets.

**Existing
Measures:**

7. Sector: All Sectors

**Obligations
Concerned:** National Treatment (Article 9.3 and Article 14.4)
Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5)
Market Access (Article 9.5)
Local Presence (Article 9.6)
Prohibition of Performance Requirements (Article 14.6)
Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure⁸ with respect to the provision of law enforcement and correctional services, and the following services⁹ to the extent that they are social services established or maintained for a public purpose:

- income security or insurance;
- social security or insurance;
- social welfare;
- public education;
- public training;
- health;¹⁰
- child care;
- public utilities;
- public transport; and
- public housing.

**Existing
Measures:**

⁸ 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.

⁹ 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.

¹⁰ For greater certainty, the subsidies programmes under Australia's Pharmaceutical Benefits Scheme and Medicare Benefits Scheme, or successor programmes, are not subject to Chapter 9 (Trade in Services), consistent with Article 9.2 (Scope), or Chapter 14 (Investment), consistent with Article 14.2 (Scope).

8. Sector:	Communication Services; Recreational, Cultural and Sporting Services
Obligations Concerned:	National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Market Access (Article 9.5) Local Presence (Article 9.6) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)
Description:	<u>Trade in Services and Investment</u> Australia reserves the right to adopt or maintain any measure with respect to: <ul style="list-style-type: none"> (a) the creative arts¹¹, cultural heritage¹² 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: <ul style="list-style-type: none"> (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>Broadcasting Services (Australian Content) Standard 2016</i> <i>Children's Television Standards 2009</i> <i>Television Program Standard 23 – Australian Content in Advertising</i> <i>Commercial Radio Codes of Practice and Guidelines</i> <i>Community Broadcasting Codes of Practice</i> <i>International Coproduction Program</i> <i>Australia Council Act 2013 (Cth)</i> <i>Screen Australia Act 2008 (Cth)</i> <i>Income Tax Assessment Act 1936 (Cth)</i> <i>Income Tax Assessment Act 1997 (Cth)</i>

¹¹ '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 artform divisions.

¹² '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.

9. Sector: Distribution Services

**Obligations
Concerned:** Market Access (Article 9.5)

Description: Trade in Services

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 Services

**Obligations
Concerned:** National Treatment (Article 9.3 and Article 14.4)
Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5)
Market Access (Article 9.5)
Local Presence (Article 9.6)
Prohibition of Performance Requirements (Article 14.6)
Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to primary education.

**Existing
Measures:**

11. Sector:	Gambling and Betting
Obligations Concerned:	National Treatment (Article 9.3 and Article 14.4) Market Access (Article 9.5) Local Presence (Article 9.6) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)
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

**Obligations
Concerned:** National Treatment (Article 9.3 and Article 14.4)
Market Access (Article 9.5)
Local Presence (Article 9.6)
Prohibition of Performance Requirements (Article 14.6)
Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to maritime cabotage services and offshore transport services.¹³

Australia reserves the right to adopt or maintain any measure with respect to the registration of vessels in Australia.

**Existing
Measures:** *Customs Act 1901* (Cth)
Fair Work Act 2009 (Cth)
Seafarers' Rehabilitation and Compensation Act 1992 (Cth)
Occupational Health and Safety (Maritime Industry) Act 1993 (Cth)
Shipping Registration Act 1981 (Cth)
Shipping Registration Regulations 1981 (Cth)
Income Tax Assessment Act 1936 (Cth)
Coastal Trading (Revitalising Australian Shipping) Act 2012 (Cth)
Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012 (Cth)
Shipping Reform (Tax Incentives) Act 2012 (Cth).

¹³ 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.

13. Sector: Transport Services

**Obligations
Concerned:** National Treatment (Article 9.3 and Article 14.4)
Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to investment in federal leased airports.

**Existing
Measures:** *Airports Act 1996 (Cth)*
Airports (Ownership-Interests in Shares) Regulations 1996 (Cth)
Airports Regulations 1997 (Cth)

14. Sector: All Sectors

**Obligations
Concerned:** Market Access (Article 9.5)

Description: Trade in Services

Australia reserves the right to adopt or maintain any measure at the regional level of government, except:

- (a) for the sectors and sub-sectors, and subject to the limitations and conditions, listed in Appendix A to this Schedule; and
- (b) as provided in paragraph 2 of this entry.

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 Organisation Doha Development Agenda negotiations (WTO Document TN/S/O/AUS/Rev.1).

**Existing
Measures:**

15. Sector: All Sectors

**Obligations
Concerned:** Most-Favoured-Nation Treatment (Article 9.4)

Description: Trade in Services

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service or service supplier under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement¹⁴.

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service or service supplier under any bilateral or multilateral international agreement signed after the date of entry into force of this Agreement except with respect to the sectors and sub-sectors listed in Appendix B to this Annex.

For sectors not listed in Appendix B, if, after the entry into force of this Agreement, Australia subsequently enters into any agreement with a non-Party in which it provides treatment to services or service suppliers of that non-Party more favourable than it accords to like services or service suppliers of Indonesia, Indonesia may request consultations to discuss the possibility of extending, such treatment. On request from Indonesia, Australia will give consideration to negotiate for the incorporation of treatment no less favourable than that provided under the agreement in question. Such incorporation shall take into account the overall balance of benefits.

Notwithstanding the above, Australia reserves the right to adopt or maintain any measure that accords more favourable treatment:

- a) to any service or service supplier taken as part of a process of economic integration or trade liberalisation between the Parties to the *Australia New Zealand Closer Economic Relations Trade Agreement* (ANZCERTA) done at Canberra on March 28, 1983¹⁵;
- b) to any service or service supplier of a Pacific Islands Forum member state under any international agreement in force or signed after the day of entry into force of this Agreement; or

¹⁴ 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.

¹⁵ For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to that agreement.

- c) to any service or service supplier under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:
 - (i) aviation;
 - (ii) fisheries; or
 - (iii) maritime matters, including salvage.

**Existing
Measures:**

16. Sector: All Sectors

**Obligations
Concerned:** Most-Favoured-Nation Treatment (Article 14.5)

Description: Investment

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any investor or covered investment under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement¹⁶.

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any investor or covered investment taken as part of a process of economic integration or trade liberalisation between the Parties to the *Australia New Zealand Closer Economic Relations Trade Agreement* (ANZCERTA) done at Canberra on March 28, 1983¹⁷.

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any investor or covered investment of a Pacific Islands Forum member state under any international agreement in force or signed after the date of entry into force of this Agreement.

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any investor or covered investment under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:

- (a) aviation;
- (b) fisheries; or
- (c) maritime matters, including salvage.

**Existing
Measures:**

¹⁶ 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.

¹⁷ For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to that agreement.

17. Sector: Financial Services

**Obligations
Concerned:** National Treatment (Article 9.3 and Article 14.4)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure¹⁸ 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.

**Existing
Measures:**

¹⁸ This includes measures that would be excluded from the application of the term “service supplied in the exercise of governmental authority” as defined in Article 9.1 (Definitions) as modified by Article 10.1.3 (Definitions), except for the application of Australia’s policy on competitive neutrality which in general allows competition and avoids providing net competitive advantage to an entity by virtue of its public sector ownership.

18. Sector: Financial Services

**Obligations
Concerned:** National Treatment (Article 9.3 and Article 14.4)
Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5)
Market Access (Article 9.5)
Local Presence (Article 9.6)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure regarding solicitation in its territory.

**Existing
Measures:**

19. Sector:	Financial Services
Sub-sector:	Insurance and insurance-related services
Obligations Concerned:	National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Market Access (Article 9.5) Local Presence (Article 9.6) Senior Management and Boards of Directors (Article 14.10)
Description:	<u>Trade in Services and Investment</u>

Except as provided in paragraphs 2 and 3 of this entry, Australia reserves the right to adopt or maintain any measure with respect to trade in services as defined in subparagraphs (a), (b) and (d) of the definition of “trade in services or supply of a service” in Article 9.1 (Definitions) for insurance and insurance related services.

Australia shall permit a financial services supplier of Indonesia to supply, via cross-border supply as defined in subparagraph (a) of the definition of “trade in services or supply of a service” in Article 9.1 (Definitions) and under terms and conditions that accord national treatment, whether as a principal, through an intermediary or as an intermediary, the following services:

- (a) insurance of risks relating to:
 - (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 there from; and
 - (ii) goods in international transit;
- (b) reinsurance and retrocession;
- (c) services auxiliary to insurance, such as consultancy, risk assessment, actuarial and claim settlement services; and
- (d) insurance intermediation, such as brokerage and agency as referred to in subparagraph (c) of the definition of “financial service” in Article 10.1

(Definitions) of insurance of risks related to services listed in subparagraphs (a) and (b) of this paragraph.

Australia shall permit its residents to purchase in the territory of Indonesia the financial services indicated in subparagraphs 2(a) to (d) of this entry.

**Existing
Measures:**

20. Sector:	Financial Services
Sub-sector:	Banking and other Financial Services (excluding Insurance and Insurance-related Services)
Obligations Concerned:	National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Market Access (Article 9.5) Local Presence (Article 9.6) Senior Management and Boards of Directors (Article 14.10)
Description:	<u>Trade in Services and Investment</u>

Except as provided in paragraphs 2, 3 and 4 of this entry, Australia reserves the right to adopt or maintain any measure with respect to trade in services as defined in subparagraphs (a), (b) and (d) of the definition of “trade in services or supply of a service” in Article 9.1 (Definitions) for banking and other financial services.

Australia shall permit a financial service supplier of Indonesia to supply, via cross-border supply as defined in subparagraph (a) of the definition of “trade in services or supply of a service” in Article 9.1 (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 subparagraph (o) of the definition of “financial service” in Article 10.1 (Definitions) and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in subparagraph (p) of the definition of “financial service” in Article 10.1 (Definitions).

Australia shall permit its residents to purchase in the territory of Indonesia the financial services indicated in subparagraphs (e) to (p) of the definition of “financial service” in Article 10.1 (Definitions).

Australia shall allow a financial institution organised in the territory of Indonesia to provide the following services to a collective investment scheme located in Australia¹⁹:

- (a) investment advice; and
- (b) portfolio management services, excluding:

¹⁹ 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.

- (i) trustee services; and
- (ii) custodial services and execution services that are not related to managing a collective investment scheme.

Note: For the purposes of this entry, the term “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:

- (i) carries on a business of investment in securities, interests in land, or other investments; and
- (ii) 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.

**Existing
Measures:**

21. Sector: Financial Services

**Obligations
Concerned:** Market Access (Article 9.5)

Description: Trade in Services

Australia reserves the right to adopt or maintain any measure imposing non-discriminatory limitations on juridical form for enterprises 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 Australia²⁰.

**Existing
Measures:**

²⁰ This entry is not itself intended to affect, or otherwise limit, a choice by a financial service supplier of the other Party between branches or subsidiaries.

APPENDIX A

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

For the purposes of this Appendix, the 'Limitations on Market Access' column refers to the supply of a service:

- 1) from the territory of a Party into the territory of the other Party (Mode 1);
- 2) in the territory of a Party to a person of the other Party (Mode 2); and
- 3) by a service supplier of a Party, through commercial presence in the territory of the other Party (Mode 3).

Sector or Sub-sector	Limitations on Market Access
1. BUSINESS SERVICES	
A. Professional services	
(a) Legal services ²¹	

²¹ 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 trade marks 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 1: 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 trade marks attorneys.

"legal arbitration, conciliation and mediation services" – 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)" – the law of Australia.

"foreign law" – the law of the territories of WTO Members and other countries other than the law of Australia.

"international law" – includes law established by international treaties and conventions, as well as customary law.

For the purposes of these definitions:

Sector or Sub-sector	Limitations on Market Access
(i) Legal advisory and representational services in domestic law (host-country law).	1) None 2) None 3) None
(ii) 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 book-keeping services (CPC 862) (c) Taxation services (CPC 863) (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)	1) None 2) None 3) None
B. Computer and related services (CPC 84)²²	
(a) Consultancy services related to the installation of computer hardware (CPC 841) (b) Software implementation services (CPC 842) (c) Data processing services (CPC 843) (d) Database services (CPC 844) (e) Other: - Maintenance and repair services of office machinery and equipment including computers (CPC 845) - Other computer services (CPC 849)	1) None 2) None 3) None

“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.

²² For greater certainty, Entry 8 of this Annex applies to measures relating to content for Computer and related services (CPC 84).

Sector or Sub-sector	Limitations on Market Access
C. Research and development services	
(a) R&D services on natural sciences (CPC 851)	1) None
(b) R&D services on social sciences and humanities (CPC 852)	2) None
(c) Interdisciplinary R&D services (CPC 853)	3) None
D. Real estate services	
(a) Involving own or leased property (CPC 821)	1) None, except commercial presence required
(b) On a fee or contract basis (CPC 822)	2) None, except commercial presence required
	3) None
E. Rental/leasing services without operators	
(a) Relating to ships (CPC 83103**) ²³	1) None
(b) Relating to aircraft (CPC 83104)	2) None
(c) Relating to other transport equipment (CPC 83101-2, 83105)	3) None
(d) Relating to other machinery and equipment (CPC 83106-9)	
F. Other business services	
(a) Advertising services (CPC 87110, 87120**, 87190) ²⁴	1) None
(b) Market research and public opinion polling services (CPC 864)	2) None
(c) Management consulting services (CPC 865)	3) None
(d) Services related to management consulting (CPC 86601, 86609) ²⁵	
(e) Technical testing and analysis services (CPC 8676)	
(f) Services incidental to agriculture, hunting and forestry (CPC 8811**, 8812**, 8814**) ²⁶	
(g) Services incidental to fishing (CPC 882**) ²⁷	
(h) Services incidental to mining and site preparation work for mining (CPC 883, 5115)	

²³ For greater certainty, this excludes maritime cabotage services and offshore transport services in accordance with Entry 12 of this Annex.

²⁴ 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 or broadcast/screening of advertisements for radio, television or cinema in accordance with Entry 8 of this Annex.

²⁵ Excludes arbitration and conciliation services.

²⁶ 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.

²⁷ Consists of specialised consultancy services only, related to marine or freshwater fisheries, fish hatchery services. Does not include fishing.

Sector or Sub-sector	Limitations on Market Access
(i) Services incidental to manufacturing (CPC 884, 885, except 88442) (j) Services incidental to energy distribution (CPC 887**) ²⁸	
(k) Placement and supply services of personnel (CPC 872)	1) Unbound 2) None 3) None
(l) Investigation and security (CPC 873) (m) Related scientific and technical consulting services (CPC 8675) (n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633, 8861-8866)	1) None 2) None 3) None
(o) Building-cleaning services (CPC 874)	1) Unbound* 2) None 3) None
(p) Photographic services (CPC 875) (s) Convention services (CPC 87909**) ²⁹ (t) Other: - 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) ³⁰	1) None 2) None 3) None
2. COMMUNICATION SERVICES	
C. Telecommunications services	
Covers the following sub-sectors from the Services Sectoral Classification List (W/120) and related CPC codes (7521, 7522, 7523, 7529**)	
(a) Voice telephone services (b) Packet-switched data transmission services (c) Circuit-switched data transmission services (d) Telex services (e) Telegraph services (f) Facsimile services (g) Private leased circuit services (o) Other: - Digital Cellular services	1) None 2) None 3) None

²⁸ 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.

²⁹ Activities of establishments engaged in provision of planning, organising, managing and marketing services for conventions and similar events (including catering and beverage services).

³⁰ Specialised consultancy services related to the post-construction design and fitting out of interior living and working spaces. Includes purchase of necessary goods.

Sector or Sub-sector	Limitations on Market Access
<ul style="list-style-type: none"> - Paging services - Personal Communications Services - Trunked Radio System Services - Mobile Data Services 	
(h) Electronic mail (CPC 7523**) (i) Voice mail (CPC 7523**) (j) On-line information and data base retrieval (CPC 7523**) (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**)	1) None 2) None 3) None
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES	
A. General construction work for buildings (CPC 512) B. General construction work for civil engineering (CPC 513) C. Installation and assembly work (CPC 514, 516) D. Building completion and finishing work (CPC 517) E. Other: <ul style="list-style-type: none"> - 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) 	1) Unbound* 2) None 3) None
4. DISTRIBUTION SERVICES	
A. Commission agents' services (CPC 62113-62118) ³¹ B. Wholesale trade services (CPC 6223-6228) ³²	1) None 2) None 3) None
C. Retailing services (CPC 631, 63212, 6322-5, 6329, 61112, 6113, 6121) ³³	1) Unbound except for mail order 2) None

³¹ For greater certainty, this excludes tobacco and alcoholic beverages, and excludes firearms in accordance with Entry 9 of this Annex.

³² 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 Annex.

³³ 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 Annex.

Sector or Sub-sector	Limitations on Market Access
	3) None
D. Franchising (CPC 8929)	1) None 2) None 3) None
5. EDUCATIONAL SERVICES	
B. Secondary education services (CPC 922**) ³⁴ C. Higher education services (CPC 923**) ³⁵ E. Other education services (CPC 929**) ³⁶	1) None 2) None 3) None
6. ENVIRONMENTAL SERVICES ³⁷	
A. Wastewater management (CPC 9401) ³⁸ B. Waste management (CPC 9402, 9403) ³⁹ D. Other: - Protection of ambient air and climate (CPC 9404) ⁴⁰ - Remediation and clean-up of soil and water (CPC 9406**) ⁴¹ - Noise and vibration abatement (CPC 9405) ⁴² - Protection of biodiversity and landscape (CPC 9406**) ⁴³ - Other environmental and ancillary services (CPC 9409) ⁴⁴	1) None 2) None 3) None

³⁴ Covers general as well as technical and vocational education at the secondary level in private institutions.

³⁵ Covers provision of private tertiary education services including at university level.

³⁶ Covers tuition and testing in English and other languages. Tuition in cuisine and traditional therapies (including massage, acupuncture), music, dance and martial arts.

³⁷ Australia's commitments on environmental services exclude the provision of water for human use, including water collection, purification and distribution through mains.

³⁸ 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.

³⁹ 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.

⁴⁰ 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.

⁴¹ Australia's commitments under 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.

⁴² This covers monitoring programmes, and installation of noise reduction systems and screens.

⁴³ Australia's commitments under items 9406** combine to cover the entirety of CPC 9406 services. This covers ecology and habitat protection and promotion of forests and promoting sustainable forestry.

⁴⁴ This covers other environment protection services, including services related to environmental impact assessment.

Sector or Sub-sector	Limitations on Market Access
7. HEALTH-RELATED AND SOCIAL SERVICES	
A. Hospital services	
Private hospital services (CPC 93110**) ⁴⁵	1) Unbound* 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. Other human health services (CPC 93199**) ⁴⁶	1) Unbound 2) None 3) None
8. TOURISM AND TRAVEL RELATED SERVICES	
A. Hotels and restaurants (CPC 641, 642, 643)	1) Unbound* 2) None 3) None
B. Travel agencies and tour operator services (CPC 7471)	1) None, except commercial presence required 2) None 3) None
C. Tourist guide services (CPC 7472)	1) None 2) None 3) None
9. RECREATIONAL, CULTURAL AND SPORTING SERVICES	
B. News agency services (CPC 962)	1) None 2) None 3) None
D. Sporting and other recreational services - Sporting services (CPC 9641) - Other recreational services (CPC 96491) ⁴⁷	1) None 2) None 3) None
10. TRANSPORT SERVICES	
A. Maritime transport services	
International transport (freight and passengers) (CPC 7211 and 7212) ⁴⁸	1) Liner Shipping, Bulk, tramp and other international shipping, including international passenger transportation: None 2) None

⁴⁵ 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.

⁴⁶ 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.

⁴⁷ Covers recreation park and beach services.

⁴⁸ For greater certainty, this excludes maritime cabotage and offshore transport services in accordance with Entry 12 of this Annex.

Sector or Sub-sector	Limitations on Market Access
	3) a) Establishment of registered company for the purpose of operating a fleet under the national flag of Australia: None 3) 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 (as defined in Note on Maritime Transport Services) ⁴⁹	1) None 2) None 3) None
- Maritime cargo handling services (as described in Note on Maritime Transport Services)	1) Unbound* 2) None 3) None, except Unbound in South Australia. Licences/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 to 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
C. Air transport services	
Aircraft repair and maintenance services during which an aircraft is withdrawn from service, excluding so-called line maintenance (CPC 8868**) ⁵⁰	1) Unbound* 2) None 3) None

⁴⁹ For greater certainty, this excludes maritime cabotage and offshore transport services in accordance with Entry 12 of this Annex.

⁵⁰ 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,

Sector or Sub-sector	Limitations on Market Access
Ground handling services ⁵¹	1) Unbound* 2) None 3) None
Airport operation services ⁵²	1) Unbound* 2) None 3) None
Selling and marketing of air transport services ⁵³	1) None, except: (a) Commercial presence required for services covered by Travel agencies and tour operator services (CPC 7471). (b) Retailing services (CPC 631, 63212, 6322-5, 6329, 61112, 6113, 6121) are unbound except for mail order. 2) None 3) None
Computer reservation systems (CPC 7523**) ⁵⁴	1) None 2) None 3) None
E. Rail transport services	
(b) Freight transportation (CPC 7112); (c) Pushing and towing services (CPC 7113); and (e) Supporting services for rail transport services (CPC743).	1) None 2) None 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

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.

⁵¹ Covers “ground handling services” as defined in Article 9.1 (Definitions).

⁵² Covers “airport operation services” as defined in Article 9.1 (Definitions).

⁵³ 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 (CPC 7471); Market research and public opinion polling services (CPC 864); Advertising services (CPC 87110, 87120**, 87190); Distribution: Commission agents’ services (CPC 62113-62118); Wholesale trade services (CPC 6223-6228); Retailing services (CPC 631, 63212, 6322-5, 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 9.1 (Definitions), except that the aspects of “marketing” covered by this commitment are limited to market research, advertising and distribution.

⁵⁴ 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 etc.). CRS services related to air carriers include the provision of information on air carrier schedules, space availability and tariffs.

Sector or Sub-sector	Limitations on Market Access
	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.
F. Road transport services	
(a) Passenger transportation (CPC 71213, 71214, 7122) ⁵⁵	1) Unbound 2) None 3) None
(b) Freight transportation (CPC 7123)	1) None
(c) Rental of commercial vehicles with operator (CPC7124)	2) None 3) None
G. Pipeline transport	
(a) Transportation of fuels (CPC 7131)	1) None
(b) Transportation of other goods (CPC 7139)	2) None 3) None
H. Services auxiliary to all modes of transport	
(a) Cargo-handling services in relation to rail, road and air transport only (CPC 741**) ⁵⁶	1) Unbound* 2) None
(b) Storage and warehouse services (CPC 742 excluding maritime) ⁵⁷	3) None
(c) Freight transport agency services (CPC 748 excluding maritime) ⁵⁸	1) None 2) None
(d) Other supporting and auxiliary transport services (CPC 749 excluding maritime) ⁵⁹	3) None

* 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 CPC concordance.

Unless otherwise stated all CPC references correspond to the United Nations Provisional Central Product Classification.

⁵⁵ Does not include regular urban bus services.

⁵⁶ Note also that maritime cargo handling services are dealt with under "Maritime Services."

⁵⁷ 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).

⁵⁸ 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).

⁵⁹ 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. 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 the other Party 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 GATS Annex on Telecommunications);
- 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 the commitments listed in Australia's Schedule of Commitments in Annex 12-A (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.

2. 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.

3. 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/discharging of cargo to/from a ship; the lashing/unlashing of cargo; and, the reception/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.

4. 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.

5. 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.

6. 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.

7. 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.

APPENDIX B⁶⁰

Sector
<ul style="list-style-type: none"> - Architectural Services (CPC 8671) - Advisory and Consultative Engineering Services (CPC 86721) - Engineering design services for the construction of foundations and building structures (CPC 86722) - Engineering design services for mechanical and electrical installations for buildings (CPC 86723) - Engineering design services for the construction of civil engineering works (CPC 86724) - Engineering design services for industrial processes and production (CPC 86725) - Other engineering services during the construction and installation phase (CPC 86727) - Other engineering services (CPC 86729) - Integrated Engineering Services (CPC 8673) - Urban Planning Services (CPC 86741) - Technical Testing and analysis services (CPC 8676)
Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633 and 8861-8866)
<ul style="list-style-type: none"> - Construction Work for Buildings (CPC 512) except for one- and two-dwelling buildings (CPC 51210) - Construction Work for Civil Engineering (CPC 513) - Assembly and Erection of Prefabricated Constructions (CPC 514) - Installation Work (CPC 516) - Building Completion and Finishing Work (CPC 517) - Pre-erection Work at Construction Site (CPC 511) except Site Investigation Work (CPC 51110) and Site Formation and Clearance Work (CPC 51113) - Special Trade Construction (CPC 515) - Renting Services Related Equipment for Construction or Demolition of Building or Civil Engineering Works with Operator (CPC 518)
<ul style="list-style-type: none"> - Secondary Education Services : Technical and Vocational Secondary Education Services (electronic, automotive) (CPC 92230) - Higher Education Services: <ul style="list-style-type: none"> • Post-secondary technical and vocational education services (CPC 9231) • Other higher education services (CPC 9239) - Adult Education Services: Language Course and Training (CPC 924) - Other Education Services: Football and Chess only (CPC 929)
Hospital Services (CPC 9311)

⁶⁰ For greater certainty, Australia's commitments on education and hospital services are subject to Entry 7 of this Annex.