

ANNEX II

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 9.7 (Non-Conforming Measures – Cross-Border Trade in Services) and 10.9 (Non-Conforming Measures – Investment), 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 – Cross-Border Trade in Services) or 10.3 (National Treatment – Investment);
- (b) Article 9.4 (Most-Favoured-Nation Treatment – Cross-Border Trade in Services) or 10.4 (Most-Favoured-Nation Treatment – Investment);
- (c) Article 9.5 (Market Access– Cross-Border Trade in Services);
- (d) Article 9.6 (Local Presence– Cross-Border Trade in Services);
- (e) Article 10.7 (Performance Requirements– Investment); or
- (f) Article 10.8 (Senior Management and Boards of Directors– Investment).

2. Each Schedule entry sets out the following elements:

- (a) **Sector** refers to the sector for which the entry is made;
- (b) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 9.7.2 and Article 10.9.2, do not apply to the sectors, sub-sectors or activities listed in the entry;
- (c) **Description** sets out the scope of the sector, sub-sector or activities covered by the entry; and
- (d) **Existing Measures** identifies, for transparency purposes, existing measures that apply to the sector, sub-sector or activities covered by the entry.

3. In accordance with Articles 9.7.2 and 10.9.2, 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

Sector:	All
Obligations Concerned:	National Treatment (Articles 9.3 and 10.3) Performance Requirements (Article 10.7) Local Presence (Article 9.6) Senior Management and Boards of Directors (Article 10.8)
Description:	<p><u>Cross-Border 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 non-conforming measure, an indigenous person means a person of the Aboriginal race of Australia or a descendent of an indigenous inhabitant of the Torres Strait Islands.</p>
Existing Measures:	Legislation and ministerial statements at all levels of government including: Australia's foreign investment policy <i>Native Title Act 1993</i> (Cth) <i>Aboriginal Land Rights Act 1983</i> (NSW) <i>Native Title (New South Wales) Act 1994</i> (NSW) <i>Aboriginal Land Act 1991 and Torres Strait Islander Land Act 1991</i> (Qld) <i>Native Title (South Australia) Act 1994</i> (SA) <i>Maralinga Tjarutja Land Rights Act 1984</i> (SA) <i>Anangu Pitjantjatjara Yankunytjatjara Act 1981</i> (SA) <i>Pitjantjatjara Land Rights Regulations 2003</i> (SA) <i>Mining Act 1971</i> (SA) <i>Opal Mining Act 1995</i> (SA) <i>Aboriginal Lands Act 1995</i> (Tas)

Sector:	All
Obligations Concerned:	National Treatment (Article 10.3) Performance Requirements (Article 10.7)
Description:	<u>Investment</u> Australia reserves the right to adopt or maintain any measure with respect to proposals by “foreign persons” to invest in Australian urban land ^{II-1} (including interests that arise via leases, financing and profit sharing arrangements, and the acquisition of interests in urban land corporations and trusts), other than developed non-residential commercial real estate.
Existing Measures:	Australia’s foreign investment policy, which comprises the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth) (FATA); Foreign Acquisitions and Takeovers Regulations 1989; and Ministerial Statements. <i>Urban Land Development Authority Act 2007</i> (Qld) <i>Integrated Planning Act 1997</i> (Qld) <i>Integrated Resort Development Act 1997</i> (Qld)

^{II-1} “Australian urban land” means land situated in Australia that is not used wholly or exclusively for carrying on a business of primary production.

Sector: All

Obligations Concerned: National Treatment (Article 10.3)
Performance Requirements (Article 10.7)
Senior Management and Boards of Directors (Article 10.8)

Description: 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 enters into force; and

(b) the privatisation of government owned entities or assets.

Existing Measures:

Sector: All

**Obligations
Concerned:** National Treatment (Articles 9.3 and 10.3)
Most-Favoured-Nation Treatment (Articles 9.4 and 10.4)
Local Presence (Article 9.6)
Performance Requirements (Article 10.7)
Senior Management and Boards of Directors (Article 10.8)

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services 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, child care, public utilities and public transport.

**Existing
Measures:**

Sector:	Agriculture
Obligations Concerned:	National Treatment (Articles 9.3 and 10.3)
Description:	<u>Cross-Border Trade in Services and Investment</u> Australia reserves the right to adopt or maintain any measure with respect to marketing boards.
Existing Measures:	<i>Wheat Marketing Act 1989</i> (Cth) <i>Grain Marketing Act 1991</i> (NSW) <i>Rice Marketing Act 1983</i> (NSW) <i>Marketing of Potatoes Act 1989</i> (WA) <i>Grain Marketing Act 2002</i> (WA) ^{II-2}

^{II-2} This Act covers bulk exports of prescribed grains (barley, canola, lupins).

Sector:	Communication Services, and Recreational, Cultural and Sporting Services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.3) Most-Favoured-Nation Treatment (Articles 9.4 and 10.4) Performance Requirements (Article 10.7) Local Presence (Article 9.6) Senior Management and Boards of Directors (Article 10.8)
Description:	<u>Cross-Border 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"> - the creative arts,¹¹⁻³ cultural heritage¹¹⁻⁴ and other cultural industries, including audiovisual services, entertainment services and libraries, archives, museums and other cultural services; - broadcasting and audiovisual services, including measures with respect to planning, licensing and spectrum management, and including: <ul style="list-style-type: none"> • services offered in Australia; and • international services originating from Australia.
Existing Measures:	<i>Broadcasting Services Act 1992 (Cth)</i> <i>Radiocommunications Act 1992 (Cth)</i> There are minimum Australian content requirements for commercial television. <i>Film and Television Office Act 1988 (NSW)</i>

¹¹⁻³ “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.

¹¹⁻⁴ “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.

Sector: Education services

**Obligations
Concerned:** National Treatment (Articles 9.3 and 10.3)
Most-Favoured-Nation Treatment (Articles 9.4 and 10.4)
Local Presence (Article 9.6)
Performance Requirements (Article 10.7)
Senior Management and Boards of Directors (Article 10.8)

Description: Cross-Border Trade in Services and Investment

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

**Existing
Measures:**

Sector: Education Services

**Obligations
Concerned:** National Treatment (Articles 9.3 and 10.3)
Most-Favoured-Nation Treatment (Articles 9.4 and 10.4)
Local Presence (Article 9.6)
Performance Requirements (Article 10.7)
Senior Management and Boards of Directors (Article 10.8)

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to the supply of public secondary and higher educational services.

**Existing
Measures:**

Sector:	Gambling and Betting
Obligations Concerned:	National Treatment (Articles 9.3 and 10.3) Performance Requirements (Article 10.7) Local Presence (Article 9.6) Senior Management and Boards of Directors (Article 10.8)
Description:	<u>Cross-Border 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: <i>Interactive Gambling Act 2001</i> (Cth) <i>Casino Control Act 1992</i> (NSW) <i>Gaming Machines Act 2001</i> (NSW) <i>Public Lotteries Act 1996</i> (NSW) <i>Lotteries and Art Unions Act 1901</i> (NSW) <i>Racing Administration Act 1998</i> (NSW) <i>Greyhound and Harness Racing Administration Act 2004</i> (NSW) <i>Thoroughbred Racing Act 1996</i> (NSW) <i>Totalizator Act 1987</i> (NSW) <i>Unlawful Gambling Act 1998</i> (NSW) <i>Gaming Control Act</i> (NT) & Regulations <i>Gaming Machine Act</i> (NT) & Regulations <i>Racing and Betting Act</i> (NT) & Regulations <i>Totaliser Licensing and Regulation Act</i> (NT) & Regulations <i>Soccer Football Pools Act</i> (NT) <i>TAB Queensland Limited Privatisation Act 1999</i> (Qld) <i>Casino Control Act 1982</i> (Qld) <i>Jupiters Casino Agreement Act 1983</i> (Qld) <i>Brisbane Casino Agreement Act 1992</i> (Qld) <i>Breakwater Island Casino Agreement Act 1984</i> (Qld) <i>Lotteries Act 1997</i> (Qld) <i>Racing Act 2002</i> (Qld) <i>Casino Act 1997</i> (SA) <i>Lottery and Gaming Act 1936</i> (SA) <i>Independent Gambling Authority Act 2001</i> (SA) <i>Gaming Machines Act 1992</i> (SA) <i>State Lotteries Act 1966</i> (SA) <i>Racing Act 1976</i> (SA) <i>Authorised Betting Operations Act 2000</i> (SA) <i>TAB (Disposal) Act 2000</i> (SA) <i>Gaming Control Act 1993</i> (Tas) <i>Racing (Totalizator Betting) Act 1952</i> (Tas) <i>TT-Line Gaming Act 1993</i> (Tas) <i>Gambling Regulation Act 2003</i> (Vic) <i>Racing Act 1958</i> (Vic)

Sector:	Maritime Transport
Obligations Concerned:	National Treatment (Article 9.3 and 10.3) Performance Requirements (Article 10.7) Local Presence (Article 9.6) Senior Management and Boards of Directors (Article 10.8)
Description:	<u>Cross-Border 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. ^{II-5}
Existing Measures:	<i>Navigation Act 1912 (Cth) supported by Migration Act 1958 (Cth), Customs Act 1901 (Cth), Workplace Relations Act 1996 (Cth), Seafarers' Compensation and Rehabilitation Act 1992 (Cth), Occupational Health and Safety (Maritime Industry) Act 1993 (Cth), Shipping Registration Act 1981 (Cth) and Income Tax Assessment Act 1936 (Cth)</i>

^{II-5} For the purposes of this non-conforming measure, “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.

Sector: Maritime

**Obligations
Concerned:** National Treatment (Article 10.3)

Description: Investment

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

**Existing
Measures:**

Sector: Transport

**Obligations
Concerned:** National Treatment (Article 10.3)
Senior Management and Boards of Directors (Article 10.8)

Description: 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)

Sector: All

Obligations Concerned: Most-Favoured-Nation Treatment (Articles 9.4 and 10.4)

Description: Cross-Border Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to the service suppliers or investors of non-Parties under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.¹¹⁻⁶

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to the service suppliers or investors of non-Parties 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:

¹¹⁻⁶ For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the *Australia New Zealand Closer Economic Relations - Trade Agreement* (ANZCERTA) done at Canberra on March 28, 1983.

Sector: All Sectors

Obligations Concerned: Market Access (Article 9.5)

Description: Investment and Cross-Border Trade in Services

Australia reserves the right to adopt or maintain any measure relating to Article 9.5, except for the following sectors and sub-sectors subject to the limitations and conditions listed below:

Legal services:

(1) and (2) None.

(3) None for legal advisory and representational services in domestic law (host-country law). For legal advisory services in foreign law and international law and (in relation to foreign and international law only) legal arbitration and conciliation/mediation services, 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.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Accounting, auditing and bookkeeping services:

(1) and (2) None.

(3) Only natural persons may be registered as auditors and liquidators.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Taxation services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Architectural services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Engineering services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Integrated engineering services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary

Entry for Business Persons Chapter.

Urban planning and landscape architectural services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Dental services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Veterinary services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Computer and related services (excluding measures relating to content covered by CPC 844 and 849):

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Research and Development services on social sciences and humanities:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Real Estate Services: involving owned or leased property; on a fee or contract basis:

(1) and (2) Commercial presence required.

(3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Rental/leasing services without operators: relating to ships (excludes cabotage, intrastate and offshore trades); relating to aircraft; relating to other transport equipment; relating to other machinery and equipment:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Advertising services (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. Does not include production or

broadcast/screening of advertisements for radio, television or cinema):

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Market research and public opinion polling services; management consulting services; services related to management consulting (excludes arbitration and conciliation services); technical testing and analysis services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Services incidental to agriculture, hunting and forestry. (Covers 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.):

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Services incidental to fishing. (Consists of specialised consultancy services only, related to marine or freshwater fisheries, fish hatchery services. Does not include fishing.):

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Services incidental to mining and site preparation work for mining:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Services incidental to manufacturing:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Services incidental to energy distribution. (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.):

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Placement and supply services of personnel:

- (1) No commitments.
- (2) and (3) None.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Investigation and security services:

- (1), (2) and (3) None.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Related scientific and technical consulting services:

- (1), (2) and (3) None.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment):

- (1), (2) and (3) None.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Building-cleaning services:

- (1) No commitments.
- (2) and (3) None.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Photographic services:

- (1), (2) and (3) None.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

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

- (1), (2) and (3) None.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Telephone answering services, duplicating services, translation and interpretation services, mailing list compilation and mailing services:

- (1), (2) and (3) None.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

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

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Voice telephone services; packet-switched data transmission services; circuit-switched data transmission services; telex services; telegraph services; facsimile services; private leased circuit services; digital cellular services; paging services; personal communications services; trunked radio system services; mobile data services (excluding services covered by the Broadcasting Services Act 1992 (Cth)):

(1) and (2) None.

(3) An entity holding a new carrier licence must be a public body or a constitutional corporation under Australian law or a partnership where each partner is a constitutional corporation under Australian law.

Aggregate foreign equity in Telstra Corporation Limited (Telstra) is restricted to no more than 35 per cent of shares of Telstra. Individual or associated group foreign investment in Telstra is restricted to no more than five per cent of shares.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Electronic mail; voice mail; on-line information and data base retrieval; electronic data interchange; enhanced/value-added facsimile services, including store and retrieve; code and protocol conversion:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

General construction work for buildings; general construction work for civil engineering; installation and assembly work; building completion and finishing work; other:

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Commission agents' services; wholesale trade services; franchising:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Retailing services. (Extends to 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):

(1) No commitments except for mail order.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Secondary education services (covers general as well as technical and vocational education at the secondary level in private institutions); higher education services (covers provision of private tertiary education services including at university level); other education services (covers English-language tuition):

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Wastewater management (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):

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Waste management (this covers hazardous and non-hazardous waste collection, treatment and disposal (including incineration, composting and landfill); sweeping and snow removal, and other sanitation services):

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Protection of ambient air and climate (this covers services at power stations or industrial complexes to remove air pollutions; monitoring of mobile emissions and implementation of control systems or reduction programs):

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Remediation and cleanup of soil and water (this covers cleaning-up systems in situ or mobile, emergency response, clean-up and longer-term abatement of spills and natural

disasters; and rehabilitation programs, eg recovery of mining sites, including monitoring):

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Noise and vibration abatement (this covers monitoring programs, and installation of noise reduction systems and screens):

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Protection of biodiversity and landscape (this covers ecology and habitat protection and promotion of forests and promoting sustainable forestry):

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Other environmental and ancillary services (this covers other environment protection services, including services related to environmental impact assessment):

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Other human health services. (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.):

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Hotels and restaurants:

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Travel agencies and tour operator services:

(1) Commercial presence required.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Tourist guide services:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

News agency services; sporting services and other recreational services (covers recreation park and beach services):

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Maritime transport:

International transport (freight and passengers) not including cabotage and offshore transport:

(1) None for liner shipping or for bulk, tramp and other international shipping, including international passenger transportation.

(2) None.

(3) Establishment of registered company for the purpose of operating a fleet under the national flag of Australia: nationality requirements for ownership and registration of vessels as defined by the *Shipping Registration Act 1981* (Cth).

None for other forms of commercial presence for the supply of international maritime transport services.

(4) No commitments for ships crews or key shore personnel, except as indicated in the Temporary Entry for Business Persons Chapter.

International rental of vessels with crew (less cabotage and offshore transport):

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Maritime auxiliary services (International rental of vessels with crew, less cabotage and offshore transport):

(1), (2) and (3) None

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Maritime cargo handling services:

- (1) No commitments.
- (2) None.
- (3) Licences/concessions are granted by port authorities.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter. In addition there is a requirement for shore labour to undertake loading and unloading of ships under the *Navigation Act 1912 (Cth)*.

Storage and warehousing services:

- (1) No commitments.
- (2) and (3) None.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Maritime freight forwarding services:

- (1), (2) and (3) None.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Customs clearance services:

- (1) No commitments.
- (2) and (3) None.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Preshipment inspection; maritime agency services:

- (1), (2) and (3) None.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Air transport:

Ground handling services: airport operation services (excluding cargo handling); cargo handling (air transport sector only); other supporting services for air transport (excludes airport and terminal firefighting services):

- (1) No commitments.
- (2) and (3) None.
- (4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Maintenance and repair of aircraft. (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):

- (1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Computer reservation systems (CRS). (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.):

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Selling and marketing of air transport services (defined as in paragraph 6(b) of the GATS Annex on Air Transport Services, except that the aspects of “marketing” covered by this commitment are limited to market research, advertising and distribution):

(1) None, except commercial presence required for services covered by travel agencies and tour operator services.

No commitments for retailing services except for mail order.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Rail transport services: freight transportation; pushing and towing services; and supporting services for rail transport services:

(1) and (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 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.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Road transport services:

Passenger transportation, excluding regular urban bus services:

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Freight transportation; rental of commercial vehicles with operator:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Pipeline transport: transportation of fuels; transportation of other goods:

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Services auxiliary to all modes of transport: storage and warehouse services, excluding maritime (extending to cover distribution centre services and materials handling and equipment services such as container station and depot services (excluding maritime)):

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Freight transport agency services, excluding maritime (extending to cover customs agency services and load scheduling services (excluding maritime)):

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

Other supporting and auxiliary transport services, excluding maritime (extending to cover container leasing and rental services (excluding maritime)):

(1), (2) and (3) None.

(4) No commitments, except as indicated in the Temporary Entry for Business Persons Chapter.

**ANNEX II
SCHEDULE OF CHILE**

Sector: All Sectors

Sub-Sector:

**Industrial
Classification:**

**Obligations
Concerned:** National Treatment (Article 10.3)

Most-Favoured-Nation Treatment (Article 10.4)

Description: Investment

Chile reserves the right to adopt or maintain any measure relating to the ownership or control of land within five kilometers of the coastline that is used for agricultural activities. Such measure could include a requirement that the majority of each class of stock of a Chilean juridical person that seeks to own or control such land be held by Chilean persons or by persons residing in Chile for 183 days or more per year.

**Existing
Measures:** Decree Law 1939, Official Gazette, November 10, 1977, Rules for acquisition, administration and disposal of State owned assets, Title I (*Decreto Ley 1939, Diario Oficial, noviembre 10, 1977, Normas sobre adquisición, administración y disposición de bienes del Estado, Título I*)

Sector: All Sectors

Sub-Sector:

**Industrial
Classification:**

**Obligations
Concerned:** National Treatment (Article 10.3)

Senior Management and Boards of Directors (Article 10.8)

Description: Investment

In the transfer or disposal of any interest in stock or asset held in an existing state enterprise or governmental entity, Chile reserves the right to prohibit or impose limitations on the ownership of said interest or asset and on the right of foreign investors or their investments to control any State company created thereby or investments made by the same. In connection with any such transfer or disposal, Chile may adopt or maintain any measure related to the nationality of senior management and members of the board of directors.

A “State company” shall mean any company owned or controlled by Chile by means of an interest share in the ownership thereof, and it shall include any company created after the entry into force of this Agreement for the sole purpose of selling or disposing of its interest share in the capital or assets of an existing state enterprise or governmental entity.

**Existing
Measures:**

Sector: All Sectors

Sub-Sector:

**Industrial
Classification:**

**Obligations
Concerned:** Most-Favoured-Nation Treatment
(Articles 9.4 and 10.4)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force on, or signed prior to, the date of entry into force of this Agreement.

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any 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:**

Sector:	Communications
Sub-Sector:	One Way Satellite Broadcasting of Digital Telecommunication Services, whether these involve Direct Home Television Broadcasting, Direct Broadcasting of Television Services and Direct Audio Broadcasting; Supplementary Telecommunication Services.
Industrial Classification:	
Obligations Concerned:	National Treatment (Article 9.3) Most-Favoured-Nation Treatment (Article 9.4) Local Presence (Article 9.6)
Description:	<u>Cross-Border Trade in Services</u> Chile reserves the right to adopt or maintain any measure related to cross-border trade in one way satellite broadcasting of digital telecommunication services, whether these involve direct home television broadcasting, direct broadcasting of television services and direct audio broadcasting; supplementary telecommunication services.
Existing Measures:	Law 18.168, Official Gazette, October 2, 1982, General Telecommunications Law, Titles I, II, III, V and VI (<i>Ley 18.168, Diario Oficial, octubre 2, 1982, Ley General de Telecomunicaciones, Títulos I, II, III, V y VI</i>)

Sector:	Communications
Sub-Sector:	One Way Satellite Broadcasting of Digital Telecommunication Services, whether these involve Direct Home Television Broadcasting, Direct Broadcasting of Television Services and Direct Audio Broadcasting; Supplementary Telecommunication Services.
Industrial Classification:	
Obligations Concerned:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Performance Requirements (Article 10.7) Senior Management and Boards of Directors (Article 10.8)
Description:	<u>Investment</u> Chile reserves the right to adopt or maintain any measure related to the investors of Australia or to their investments in one way satellite broadcasting of digital telecommunication services, whether these involve direct home television broadcasting, direct broadcasting of television services and direct audio broadcasting; supplementary telecommunication services.
Existing Measures:	Law 18.168, Official Gazette, October 2, 1982, General Telecommunications Law, Titles I, II, III, V and VI (<i>Ley 18.168, Diario Oficial, octubre 2, 1982, Ley General de Telecomunicaciones, Títulos I, II, III, V y VI</i>)

Sector: Issues Involving Minorities
Sub-Sector:

**Industrial
Classification:**

**Obligations
Concerned:** National Treatment (Articles 9.3 and 10.3)
Most-Favoured-Nation Treatment (Articles 9.4 and 10.4)
Performance Requirements (Article 10.7)
Senior Management and Boards of Directors (Article 10.8)
Local Presence (Article 9.6)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities.

**Existing
Measures:**

Sector: Issues Involving Minorities

Sub-Sector:

**Industrial
Classification:**

**Obligations
Concerned:**

National Treatment (Articles 9.3 and 10.3)

Most-Favoured-Nation Treatment (Articles 9.4 and 10.4)

Performance Requirements (Article 10.7)

Senior Management and Boards of Directors (Article 10.8)

Local Presence (Article 9.6)

Description:

Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure denying investors of Australia and their investments or service suppliers of Australia any rights or preferences provided to indigenous peoples.

**Existing
Measures:**

Sector: Education

Sub-Sector:

Industrial Classification: CPC 92 Education services

Obligations Concerned: National Treatment (Article 9.3)

Most-Favoured-Nation Treatment (Article 9.4)

Local Presence (Article 9.6)

Description: Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure relating to natural persons who supply educational services, including teachers and auxiliary personnel supplying educational services in elementary education, kindergarten, pre-school, special education, primary and high school education, professional, technical, and university education, including in educational establishments of any kind as well as sponsors of educational establishments, schools, lyceums, academies, training centres, professional and technical institutes and/or universities.

This non-conforming measure does not apply to the supply of services related to second-language training, corporate, business, and industrial training and skill upgrading, which include consulting services relating to technical support, advice, curriculum and program development in education.

Existing Measures:

Sector: Government Finances

Sub-Sector:

Industrial Classification: CPC 91112 Financial and fiscal services

Obligations Concerned: National Treatment (Article 10.3)

Description: Investment

Chile reserves the right to adopt or maintain any measure related to the acquisition, sale or disposal by Australian nationals of bonds, treasury securities or any other type of debt instruments issued by the Central Bank of Chile (*Banco Central de Chile*) or the Government of Chile. This non-conforming measure is not intended to affect the rights of Australian financial institutions (banks) established in Chile to acquire, sell or dispose of such instruments when required for the purposes of regulatory capital.

Existing Measures:

Sector:	Fisheries
Sub-Sector:	Fishing-Related Activities
Industrial Classification:	CPC 882 Services incidental to fishing CPC 04 Fish and other fishing products
Obligations Concerned:	National Treatment (Articles 9.3 and 10.3) Most-Favoured-Nation Treatment (Articles 9.4 and 10.4)
Description:	<u>Investment and Cross-Border Trade in Services</u> Chile reserves the right to control the activities of foreign fishing, including fish landing, first landing of fish processed at sea and access to Chilean ports (port privileges). Chile reserves the right to control the use of beaches, land adjacent to beaches (<i>terrenos de playas</i>), water-columns (<i>porciones de agua</i>) and sea-bed lots (<i>fondos marinos</i>) for the issuance of maritime concessions. For greater certainty, “maritime concessions” do not cover aquaculture.
Existing Measures:	Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law, Titles I, II, III, IV and V (<i>Decreto Ley 2.222, Diario Oficial, mayo 31, 1978, Ley de Navegación Títulos I, II, III, IV y V</i>) D.F.L. 340, Official Gazette, April 6, 1960, about Maritime Concessions (<i>D.F.L. 340, Diario Oficial, abril 6, 1960, sobre Concesiones Marítimas</i>) Supreme Decree 660, Official Gazette, November 28, 1988, Maritime Concession Act (<i>Decreto Supremo 660, Diario Oficial, noviembre 28, 1988, Reglamento de Concesiones Marítimas</i>) Supreme Decree 123 of the Ministry of Economic Affairs, Development and Reconstruction, Vice-Ministry of Fishing, Official Gazette, August 23, 2004, On Use of Ports (<i>Decreto Supremo 123 del Ministerio de Economía, Fomento y Reconstrucción, Subsecretaría de Pesca, Diario Oficial, agosto 23, 2004, Sobre Uso de Puertos</i>)

Sector: Cultural Industries

Sub-Sector:

**Industrial
Classification:**

**Obligations
Concerned:** Most-Favoured-Nation Treatment (Articles 9.4 and 10.4)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any existing or future bilateral or multilateral international agreement with respect to cultural industries, such as audiovisual cooperation agreements. For greater certainty, for the purposes of this non-conforming measure, government supported subsidy programs for the promotion of cultural activities are not subject to the limitations or obligations of this Agreement.

“Cultural industries” means persons engaged in any of the following activities:

- (a) publication, distribution, or sale of books, magazines, periodical publications, or printed or electronic newspapers, excluding the printing and typesetting of any of the foregoing;
- (b) production, distribution, sale, or display of recordings of movies or videos;
- (c) production, distribution, sale, or display of music recordings in audio or video format;
- (d) production, distribution, or sale of printed music scores or scores readable by machines; or
- (e) radiobroadcasts aimed at the public in general, as well as all radio, television and cable television-related activities, satellite programming services and broadcasting networks.

**Existing
Measures:**

Sector:	Social Services
Sub-Sector:	
Industrial Classification:	CPC 913 Compulsory social security services CPC 92 Education services CPC 93 Health and social services
Obligations Concerned:	National Treatment (Articles 9.3 and 10.3) Most-Favoured-Nation Treatment (Articles 9.4 and 10.4) Performance Requirements (Article 10.7) Senior Management and Boards of Directors (Article 10.8) Local Presence (Article 9.6)
Description:	<u>Investment and Cross-Border Trade in Services</u> Chile reserves the right to adopt or maintain any measure with respect to the supply of public law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for reasons of public interest: income security or insurance, social security or insurance, social welfare, public education, public training, health care and child care.
Existing Measures:	

Sector:	Environmental Services
Sub-Sector:	
Industrial Classification:	CPC 94 Sewage and refuse disposal, sanitation and other environmental protection services
Obligations Concerned:	National Treatment (Article 9.3) Most-Favoured-Nation Treatment (Article 9.4) Local Presence (Article 9.6)
Description:	<u>Cross-Border Trade in Services</u> Chile reserves the right to adopt or maintain any measure imposing the requirement that the production and distribution of drinking water, the collection and disposal of waste water and sanitation services, such as sewage systems, waste disposal and waste water treatment may only be provided by juridical persons incorporated under Chilean law or created in accordance with the requirements established by Chilean law. This non-conforming measure shall not apply to consultancy services retained by the said juridical persons.
Existing Measures:	

Sector: Construction Services

Sub-Sector:

Industrial CPC 51 Construction work

Classification:

CPC 52 Constructions

Obligations National Treatment (Article 9.3)

Concerned:

Local Presence (Article 9.6)

Description: Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure with respect to the supply of construction services by foreign juridical persons or legal entities imposing requirements of residence, registration and/or any other form of local presence, or imposing the obligation of giving financial security for work as a condition for the supply of construction services.

Existing
Measures:

Sector

All Sectors

**Obligations
Concerned:
Description**

Market Access (Article 9.5)

Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure relating to Article 9.5, except for the following sectors and sub-sectors subject to the limitations and conditions listed below:

Legal services:

(1) and (3) None, except in the case of receivers in bankruptcy (*síndicos de quiebra*) who must be duly authorised by the Minister of Justice, and they can only work in the place where they reside.

(2) None

(4) No commitments, except as indicated in Labour Code restriction.

Accounting, auditing and bookkeeping services:

(1) and (3) None, except the external auditors of financial institutions must be inscribed in the Register of External Auditors of the *Superintendencia de Bancos e Instituciones Financieras* and in the *Superintendencia de Valores y Seguros*. Only firms legally incorporated in Chile as partnerships (*sociedades de personas*) or associations (*asociaciones*), and whose main line of business is auditing services, may be inscribed in the Register.

(2) None

(4) No commitments, except as indicated in Labour Code restriction.

Taxation services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Architectural services:

(1), (2) and (3) None

(4) No commitments, except as indicated in Labour Code restriction.

Engineering services:

(1), (2) and (3) None

(4) No commitments, except as indicated in Labour Code restriction.

Integrated engineering services:

(1) No commitments.

(2) None

(3) No commitments.

(4) No commitments, except as indicated in Labour Code restriction.

Veterinary services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Services provided by midwives, nurses, physiotherapists and paramedical personnel:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Computer and related services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Research and Development services on natural sciences:

(1), (3) None except: The Directorate of Borders and Frontiers may stipulate that an expedition include one or more representatives of relevant Chilean activities. These representatives would participate in and learn about the studies and their scope.

(2) None

(4) No commitments, except as indicated in Labour Code restriction.

Research and Development services on social sciences and humanities, Interdisciplinary Research and Development services:

(1), (2) and (3) None

(4) No commitments, except as indicated in Labour Code restriction.

Real Estate services: involving owned or leased property or on a fee or contract basis:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Rental/leasing services without crew/operators, related to vessels, aircraft, any other transport equipment, and other machinery and equipment:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Advertising services, market research and public opinion polling services, management consulting services, services related to management consulting, technical testing and analysis services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Services related to agriculture, hunting and forestry:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Services related to mining, placement and supply services of personnel, investigation and security services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Maintenance and repair of equipment (not including vessels, aircraft, or other transport equipment), building-cleaning services, photographic services, packing services, and convention services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Printing and publishing services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Post-secondary technical and vocational education services and adult education services n.e.c.:

(1), (2) None.

(3) No commitments.

(4) No commitments, except as indicated in Labour Code Restriction.

National or international long-distance telecommunications services:

(1), (2), (3), and (4) Chile reserves the right to adopt or maintain any measure that is not inconsistent with Chile's obligations under Article XVI of GATS.

Local basic telecommunication services and networks, intermediate telecommunications services, supplementary telecommunications services and limited telecommunications services:

(1), (2), and (3) A concession granted by means of a *Decreto Supremo* issued by the *Ministerio de Transportes y Telecomunicaciones* shall be required for the installation, operation and exploitation of public and intermediary telecommunications services in Chilean territory. Only juridical persons organised under the Chilean law shall be eligible for such concessions.

An official decision issued by the *Subsecretaría de Telecomunicaciones* shall be required to render Supplementary Telecommunications Services, consisting of additional services provided by hooking up equipment to public networks. Said decision refers to compliance with the technical standards established by the *Subsecretaría de Telecomunicaciones* and non-alteration of the essential technical features of networks or of the permissible technological or basic service modalities provided through them.

A permit issued by the *Subsecretaría de Telecomunicaciones* shall be required for the installation, operation and development of limited telecommunications services. International traffic shall be routed through the installations of a company holding a concession granted by the *Ministerio de Transporte y Telecomunicaciones*.

(4) No commitments, except as indicated in Labour Code restriction.

Commission agents services, wholesale trade services, retailing services, franchising and other distribution:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Hotels and restaurants (including catering), travel agencies and tour operators services and tourist guide services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Entertainment services (including theatre, live bands and circus services), news agencies services, libraries, archives, museums, and other cultural services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Sporting and other recreational services, excluding gambling and betting services:

(1) (2), and (3) None, except that a specific type of legal entity may be required for sporting organisations that develop professional activities. In addition, (a) it is not permitted to participate with more than one team in the same category of a sport competition; (b) specific regulations may be established on equity ownership in sporting companies; and (c) minimal capital requirements may be imposed.

(4) No commitments, except as indicated in Labour Code restriction.

Road Transport: freight transportation, rental of commercial vehicles with operator; maintenance and repair of road transport equipment; supporting services for road transport services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Services auxiliary to all transport: cargo handling services; storage and warehouse services; freight transport agency services:

(1), (2), and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.

Pipeline transport: transportation of fuels and other goods:

(1), (2), and (3) None, except that the service has to be supplied by juridical persons established under Chilean law

and the supply of the service may be subject to a concession on a national treatment basis.

(4) No commitments, except as indicated in Labour Code restriction.

Aircraft repair and maintenance services:

(1) No commitments.

(2) and (3) None.

(4) No commitments, except as indicated in Labour Code restriction.