

# ORGANIZACIÓN MUNDIAL DEL COMERCIO

S/DCS/W/AUS/Rev.1

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Comercio de Servicios

Original: inglés

## AUSTRALIA

### Proyecto de lista refundida de compromisos específicos<sup>1</sup>

#### Revisión

El documento adjunto contiene una versión revisada del proyecto de la lista refundida de compromisos específicos de Australia, en formato Word. Este documento no sustituye los compromisos jurídicamente vinculantes contraídos por Australia en su Lista de compromisos específicos (GATS/SC/6; GATS/SC/6/Suppl.2; GATS/SC/6/Suppl.3; GATS/SC/6/Suppl.4).

Adjunto al proyecto revisado de lista refundida figura un proyecto de lista refundida de exenciones del artículo II (NMF) de Australia (GATS/EL/6 y GATS/EL/6/Suppl.1).

El proyecto revisado de la lista refundida de compromisos específicos y la Lista de exenciones del trato NMF fueron preparados por la Secretaría, a petición de los Miembros, para facilitar el proceso de las negociaciones, incluida la presentación de ofertas iniciales.

El documento revisado contiene correcciones a las anotaciones relativas a los puntos siguientes:

- la sección de la lista correspondiente a las medidas horizontales, en la que se habían omitido erróneamente los compromisos contraídos por Australia con arreglo al Tercer Protocolo relativo al movimiento de personas físicas (GATS/SC/6/Suppl.2);
- 5. EDUCATION SERVICES; C. Higher education services (923\*\*): la anotación correcta para el Modo 3 en la columna Limitations on National Treatment es "Unbound" en lugar de "None".

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<sup>1</sup> El presente documento se ha preparado, en inglés solamente, bajo la responsabilidad de la Secretaría y sin perjuicio de las posiciones de los Miembros ni de sus derechos y obligaciones en el marco de la OMC.

Notes:

- i) The classification of sectors is based on the 1991 provisional Central Product Classification (CPC) of the United Nations Statistical Office, while the ordering reflects the Services Sectoral Classification List (MTN.GNS/W/120 of 10 July 1991). The appearance of \*\* against individual CPC listings indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance.
- ii) The entry "Unbound\*" means unbound due to lack of technical feasibility.

## AUSTRALIA – SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply:        (1) Cross-border        (2) Consumption abroad        (3) Commercial presence        (4) Presence of natural persons

| Sector or Sub-sector                  | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|---------------------------------------|--|--|------------------------|
| ALL SECTORS INCLUDED IN THIS SCHEDULE | <p>3) Notification and examination under Australia's foreign investment policy guidelines and the Foreign Acquisitions and Takeovers Act 1975. In addition to the specific foreign investment policy requirement set out in those parts of this Schedule concerning financial services and international shipping, proposals for foreign interests to invest in the services identified in the Schedule are examined under the Government's policy guidelines without the need to demonstrate economic benefits or to provide for Australian equity participation and are approved unless national interest considerations arise.</p> <p>4) Unbound except for measures concerning the entry and temporary stay of natural persons in the following categories:</p> <p>a) Executives and senior managers, as intracorporate transferees, for periods of initial stay up to four years.</p> | <p>3) Australia's foreign investment policy guidelines apply to foreign-owned or controlled enterprises after establishment in Australia</p> <p>At least two of the directors of a public company must be ordinarily resident in Australia</p> <p>Unbound for current and future measures at the federal, state or local government levels according rights or preferences to any indigenous person or organisation 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. For the purposes of this Schedule, an indigenous person means a person of the Aboriginal race of Australia or a descendant of an indigenous inhabitant of the Torres Strait Islands.<br/>Unbound for subsidies for research and development.</p> <p>4) Unbound except for measures concerning the categories of natural persons referred to in the market access column.</p> |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector | Limitations on Market Access   | Limitations on National Treatment | Additional Commitments |
|----------------------|--|-----------------------------------|------------------------|
|                      | <p>Executives and senior managers being natural persons who are employees of a company operating in Australia, and who will be responsible for the entire or a substantial part of that company's operations in Australia, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the business, including directing the company or a department or sub-division of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or sub-division of the company.</p> <p>b) Independent executives, without requiring compliance with labour market tests, for periods of initial stay up to a maximum of two years.<br/>Independent executives being natural persons who meet the criteria of executives and senior managers who intend, or are responsible for the establishment in Australia, of a new business of a service supplier with its head of operations in the territory of another Member and which has no other representative, branch or subsidiary in Australia.</p> <p>c) Service sellers, as business visitors, without requiring compliance with labour market tests, for periods of initial stay of up to 6 months</p> |                                   |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector | Limitations on Market Access   | Limitations on National Treatment | Additional Commitments |
|----------------------|--|-----------------------------------|------------------------|
|                      | <p>Service sellers being natural persons not based in Australia who are (sales) representatives of a service supplier and are seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service supplier, where those representatives will not be engaged in making direct sales to the general public or in supplying services themselves.</p> <p>Applicants for business visitor visas are natural persons seeking to travel to Australia for business purposes and not intending to engage in work that might otherwise be carried out by an Australian citizen or Australian permanent resident. This requirement will be satisfied where the service seller's remuneration and financial support for the duration of the visit are derived entirely from sources outside Australia.</p> <p>This requirement would also normally be regarded as being satisfied in cases where the person seeking a business visit visa had won a contract to provide a service in Australia.</p> <p>d) Specialists, subject to individual compliance with labour market testing, for periods of initial stay up to a maximum of two years with provision of extension provided the total stay does not exceed four years.</p> |                                   |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector | Limitations on Market Access   | Limitations on National Treatment | Additional Commitments |
|----------------------|--|-----------------------------------|------------------------|
|                      | <p>Specialists being natural persons with trade, technical or professional skills who are responsible for or employed in a particular aspect of a company's operations in Australia. Skills are assessed in terms of the applicant's employment experience, qualifications and suitability for the position.</p> <p>Labour market testing is not required for (i) natural persons who have specialised knowledge at an advanced level of a proprietary nature of the company's operations and have been employed by the company for a period of not less than two years and (ii) if the position in question is within a labour agreement in force at the time of application. A labour agreement is an agreement between the Australian Government, employers or industry organisations and unions for the entry of specialists from overseas.</p> <p>The above commitments do not apply in cases of labour/management dispute.</p> |                                   |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector  | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments   |
|---|--|--|--|
| <b>II. SECTOR-SPECIFIC COMMITMENTS</b>  |  |  |  |
| 1. BUSINESS SERVICES<br>A. <u>Professional Services</u><br>a) Legal services<br>Home country law,<br>including public<br>international law<br>(861**) | 1) None<br>2) None<br>3) Natural persons practising foreign law may only join a local law firm as an employee or as a consultant and may not enter into partnership with or employ local lawyers.<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) At least one equity partner in a firm engaged in advising on foreign law matters must be a permanent resident (NSW, Victoria); at least one equity partner in a foreign law firm must be resident for a minimum period of 180 days per calendar year (Queensland).<br>4) Unbound except as indicated in the horizontal section. | 3) Joint offices involving revenue-sharing between foreign law firms and Australian local law firms are permitted in NSW, Victoria, Queensland and Tasmania subject to the foreign law firms satisfying certain requirements, including in relation to liability, standard of conduct and professional ethics. |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector                                    | Limitations on Market Access  | Limitations on National Treatment   | Additional Commitments |
|---|---|---|------------------------|
| b) Accounting, auditing and book-keeping services (862) | 1) None<br>2) None<br>3) Only natural persons may be registered as auditors and liquidators.<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) At least one equity partner in a firm must be a permanent resident.<br>4) Unbound except as indicated in the horizontal section. |                        |
| c) Taxation services (863)                              | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  |                        |
| d) Architectural services (8671)                        | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  |                        |
| e) Engineering services (8672)                          | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  |                        |
| f) Integrated engineering services (8673)               | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  |                        |
| g) Urban planning (86741)                               | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  |                        |



Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector   | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|--|--|--|------------------------|
| h) Dental services<br>(93123)  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| i) Veterinary services<br>(932)  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| <b>B. <u>Computer and related services</u></b>   |  |  |                        |
| a) Consultancy services related to the installation of computer hardware<br>(841)        | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| b) Software implementation services<br>(842)   | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| c) Data processing services<br>(843)   | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| e) Maintenance and repair services of office machinery and equipment including computers | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the                     | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the                     |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector                                    | Limitations on Market Access   | Limitations on National Treatment   | Additional Commitments |
|---|--|---|------------------------|
| (845)   | horizontal section.  | horizontal section.   |                        |
| C. <u>Research and development services</u>             |  |   |                        |
| b) R&D services on social sciences and humanities (852) | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.   | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section<br>Permanent residency requirement for psychologists (Western Australia). |                        |
| D. <u>Real estate services</u>                          |  |   |                        |
| a) Involving own or leased property (821)               | 1) Commercial presence required<br>2) Commercial presence required<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  |                        |
| b) On a fee or contract basis (822)                     | 1) Commercial presence required<br>2) Commercial presence required<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  |                        |
| E. <u>Rental/leasing services without operators</u>     |  |   |                        |
| a) Relating to ships (83103**)                          | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.   | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  |                        |
| Excludes cabotage, intrastate and offshore trades       |  |   |                        |
| b) Relating to aircraft (83104)                         | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the   | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the  |                        |

Modes of supply:           (1) Cross-border           (2) Consumption abroad           (3) Commercial presence           (4) Presence of natural persons

| Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment | Additional Commitments |
|----------------------|------------------------------|-----------------------------------|------------------------|
|                      | horizontal section.          | horizontal section.               |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector  | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|---|--|--|------------------------|
| c) Relating to other transport equipment (83101, 83102, 83105)  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| d) Relating to other machinery and equipment (83106-9)  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| F. <u>Other business services</u>   |  |  |                        |
| a) Advertising services (87110, 87120**, 87190)<br><br>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) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector   | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|--|--|--|------------------------|
| b) Market research and public opinion polling services (864)   | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| c) Management consulting services (865)  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| d) Services related to management consulting (86601, 86609)<br><br>Excludes arbitration and conciliation services  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| f) Services incidental to agriculture, hunting and forestry (8811**, 8812**, 8814**)<br><br>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) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector   | Limitations on Market Access  | Limitations on National Treatment   | Additional Commitments |
|--|---|---|------------------------|
| <p>g) Services incidental to fishing (882**)</p> <p>Consists of specialised consultancy services only, related to marine or freshwater fisheries, fish hatchery services. Does not include fishing.</p>  | <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal section.</p> | <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal section.</p> |                        |
| <p>h) Services incidental to mining (883**)</p> <p>Consultancy on a fee or contract basis relating to mining and oil field development</p>   | <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal section.</p> | <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal section.</p> |                        |
| <p>j) Services incidental to energy distribution (887**)</p> <p>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</p> | <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal section.</p> | <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal section.</p> |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector   | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|--|--|--|------------------------|
| k) Placement and supply services of personnel (872)  | 1) Unbound<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  | 1) Unbound<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  |                        |
| l) Investigation and security (873)  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     |                        |
| m) Related scientific and technical consulting services (86752**, 86753)<br><br>Assembly and assessment of land and geographic related information; practice of the science of measurement; use of that information for the purpose of planning and implementing the administration of the land and sea. May involve surveying activities on, above or below the surface of the land or sea. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     |                        |
| o) Building-cleaning services (874)  | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector   | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|--|--|--|------------------------|
| p) Photographic services<br>(875)  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| s) Convention services<br>(87909**)  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| Activities of establishments engaged in provision of planning, organising, managing and marketing services for conventions and similar events (including catering and beverage services) |  |  |                        |



Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector  | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|---|--|--|------------------------|
| t) Other:   |  |  |                        |
| Telephone answering services<br>(87903)   | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| Duplicating services<br>(87904)   | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| Translation and interpretation services<br>(87905)  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| Mailing list compilation and mailing services<br>(87906)  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| Interior design<br>(87907)  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| Specialised consultancy services related to the post-construction design and fitting out of interior living and working spaces. Includes purchase of necessary goods. |  |  |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector  | Limitations on Market Access   | Limitations on National Treatment            | Additional Commitments   |
|---|--|--|--|
| <p>2. COMMUNICATION SERVICES</p> <p>C. <u>Telecommunications services</u></p> <p>Covers the following sub-sectors from the Services Sectoral Classification List and related CPC numbers 7521,7522,7523, 7529**</p> <p>a) Voice telephone services</p> <p>b) Packet-switched data transmission services</p> <p>c) Circuit-switched data transmission services</p> <p>d) Telex services</p> <p>e) Telegraph services</p> <p>f) Facsimile services</p> <p>g) Private leased circuit services</p> <p>o) <u>Other</u></p> <p>Digital Cellular services</p> <p>Paging services</p> <p>Personal Communications Services</p> | <p>1) None</p> <p>2) None</p> <p>3) Primary supply of satellite services limited to two service providers (licensed general carriers) until 30 June 1997.</p> <p>Primary supply of public mobile cellular telecommunications services limited to three service providers (licensed mobile carriers) until 30 June 1997.</p> <p>The Government has introduced legislation aimed at implementing an unlimited number of basic telecommunications carrier licences from 1 July 1997 and no sector specific foreign equity limits for new carriers. Australia binds itself to the outcome of this Parliamentary process in terms of numbers of carrier licences and foreign equity applying to new carrier licences. An entity holding a new carrier licence must be a public body or a constitutional corporation under Australian law.</p> | <p>1) None</p> <p>2) None</p> <p>3) None</p> | <p>The attached reference paper on regulatory principles is incorporated as additional commitments by Australia.</p> |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector   | Limitations on Market Access  | Limitations on National Treatment   | Additional Commitments |
|--|---|---|------------------------|
| Trunked Radio System Services  | <p>The first licensed general carrier, Telstra, is government owned. Legislation permitting the sale of one third of the government's equity in Telstra comes into effect on 1 May 1997. Foreign equity will be limited to 35% of this one third (about 11.7% of total equity) with a limit of 5% of the one third (about 1.7% of total equity) available to individual or associated group foreign investors.</p> <p>There are no limits on total foreign equity in Optus (holder of general carrier and mobile licence). However, foreign investment policy requirements for Optus are such that there are certain limits on the share of equity which any individual foreign shareholder may hold. There is a requirement for majority Australian ownership of Vodafone (holder of a mobile carrier licence). Measures shall be maintained to ensure that these arrangements continue to apply after 30 June 1997.</p> | <p>The Chairman and directors of Optus must be Australian citizens, other than those directors (who must comprise the minority) appointed by the two current major foreign investors.</p> |                        |
| Mobile Data Services   |   |   |                        |
| Services covered by the Broadcasting Services Act 1992 are excluded from the basic telecommunications sector |   |   |                        |
| h) Electronic mail (7523**)  | <p>4) Unbound except as indicated in horizontal section.</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal section</p>   | <p>4) Unbound except as indicated in horizontal section.</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal section</p>                 |                        |
| i) Voice mail (7523**)   | <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal section</p>  | <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal section</p>  |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector  | Limitations on Market Access  | Limitations on National Treatment   | Additional Commitments |
|---|---|---|------------------------|
| j) On-line information and data base retrieval (7523**)                           | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section |                        |
| k) Electronic data interchange (EDI) (7523**)                                     | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section |                        |
| l) Enhanced/value-added facsimile services, including store and retrieve (7523**) | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section |                        |
| m) Code and protocol conversion (7523**)  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector   | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|--|--|--|------------------------|
| 3. CONSTRUCTION AND RELATED ENGINEERING SERVICES                   |  |  |                        |
| A. <u>General construction work for buildings</u><br>(512)         | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| B. <u>General construction work for civil engineering</u><br>(513) | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector                                      | Limitations on Market Access  | Limitations on National Treatment  | Additional Commitments |
|---|---|--|------------------------|
| C. <u>Installation and assembly work</u><br>(514, 516)    | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.                      | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| D. <u>Building completion and finishing work</u><br>(517) | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.                      | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| 4. DISTRIBUTION SERVICES                                  |   |  |                        |
| A. <u>Commission agents' services</u><br>(62113-62118)    | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.                          | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     |                        |
| B. <u>Wholesale trade services</u><br>(6223-6228)         | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.                          | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     |                        |
| C. <u>Retailing services</u><br>(631, 63212, 6322-9)      | 1) Unbound except for mail order<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     |                        |
| Does not cover dispensing of pharmaceuticals              |   |  |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector   | Limitations on Market Access   | Limitations on National Treatment   | Additional Commitments |
|--|--|---|------------------------|
| D. <u>Franchising</u><br>(8929)  | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.    |                        |
| 5. EDUCATIONAL SERVICES  |  |   |                        |
| B. <u>Secondary education services</u><br>(922**)<br><br>Covers general as well as technical and vocational education at the secondary level in private institutions | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) Unbound<br>4) Unbound except as indicated in the horizontal section. |                        |
| C. <u>Higher education services</u><br>(923**)<br><br>Covers provision of private tertiary education services including at university level                          | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) Unbound<br>4) Unbound except as indicated in the horizontal section. |                        |
| E. <u>Other education services</u><br>(929**)<br><br>Covers English language tuition   | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) Unbound<br>4) Unbound except as indicated in the horizontal section. |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector                                | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|---|--|--|------------------------|
| 6. ENVIRONMENTAL SERVICES                           |  |  |                        |
| A. <u>Sewage services</u><br>(9401)                 | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| B. <u>Refuse disposal services</u><br>(9402)        | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| C. <u>Sanitation and similar services</u><br>(9403) | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |



Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector  | Limitations on Market Access   | Limitations on National Treatment | Additional Commitments |
|---|--|-----------------------------------|------------------------|
| <p>7. FINANCIAL SERVICES</p> <p>Australia undertakes its specific commitments on financial services in accordance with the "Understanding on Commitments in Financial Services" (hereinafter referred to as the "Understanding").</p> <p>The obligations under the Understanding are addressed in this Schedule additionally to those covered by the provisions of Part III of the Agreement and the Annex on Financial Services. The market access commitments with respect to "cross-border supply" and "consumption abroad" (as described in paragraphs 2(a) and 2(b) of Article I of the Agreement) bound in this Schedule are limited to the services indicated in paragraphs B.3 and B.4 of the Understanding, respectively.</p> <p>These specific commitments on financial services are subject to the general limitations contained in the "Horizontal Commitments" section of Australia's GATS Schedule.</p> |  |                                   |                        |
| A. <u>Insurance and insurance-related services</u>  | <p>3) Approval of non-resident life insurers is restricted to subsidiaries.</p> <p>3) Registered foreign life insurance companies are required to have a principal officer resident in Australia.</p> <p>1), 3) An authorised insurance company operating in Australia as a non-incorporated entity must appoint an Australian resident as agent of the insurer.</p> |                                   |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector | Limitations on Market Access   | Limitations on National Treatment   | Additional Commitments |
|----------------------|--|---|------------------------|
|                      | <p>3) Most State and Territory Governments maintain restrictions, by way of monopolies or licensing provisions and associated controls on premiums and other terms of policies, in the following areas of insurance:</p> <p>Compulsory Third Party Motor Vehicle Accident: VIC, WA, TAS, NT (monopolies); NSW, QLD, SA, ACT (licensing, premiums/ policy terms).</p> <p>Workers Compensation: SA, VIC, QLD monopolies); NSW, WA, TAS (licensing, premiums/ policy terms).</p> <p>Comcare is the monopoly provider of workers' compensation insurance to Commonwealth Government employees.</p> | <p>3) Sub-national guarantees are provided to some State and Territory Insurance Offices.</p> |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector   | Limitations on Market Access  | Limitations on National Treatment | Additional Commitments |
|--|---|-----------------------------------|------------------------|
| B. <u>Banking and Other financial service</u><br>(excluding insurance) | <p>4) The temporary entry of specialists in the operation of an insurance service supplier established in Australia is permitted subject to the terms stipulated in the horizontal section.</p> <p>1) The investment at interest in Australia of official reserves by foreign central banks and foreign government monetary institutions is approved by the Reserve Bank provided that it obtains assurance from the investing authority that it will aim to be a stable holder of the Australian dollar and that it will consult with the Bank in the event of significant changes in its Australian dollar portfolio. Monetary institutions, responsible for both reserve assets and commercial investments, are permitted to invest in Australia up to a limit under the same conditions.</p> <p>1), 3) A foreign bank located overseas is able to offer its services to Australian enterprises, but is not allowed to raise deposit funds in Australia or undertake business within Australia unless it is an authorised bank (or establishes a money market corporation, subsidiary etc.). Foreign banks located overseas may, however, raise funds in Australia through the issue of debt securities provided that those securities are offered/traded in parcels of not less than \$A500,000 and the securities and any information memoranda clearly state the issuing bank is not authorised under the Banking Act in Australia.</p> |                                   |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|----------------------|--|--|------------------------|
|                      | <p>1), 3) Dealings in foreign exchange in Australia must be carried out through a dealer authorised by the Reserve Bank. Only banks, including branches of overseas banks, and financial institutions incorporated in Australia with the required minimum capital base are eligible to seek authorization as a foreign exchange dealer.</p> <p>3) Foreign banks satisfying prudential requirements and that are able to demonstrate their potential contribution to competition in Australia may conduct banking in Australia. Foreign banks may undertake banking operations in Australia through locally incorporated subsidiaries and/or an authorised branch. However, a branch may not accept "retail" deposits. A foreign bank wishing to accept "retail" deposits must seek authorization as a locally incorporated subsidiary for that purpose. Foreign bank branches may accept deposits (and other funds) in any amount from incorporated entities, non-residents and their own employees. Deposits (and other funds) may only be accepted from other sources where the initial deposit (or other funds) is greater than \$A250,000. Deposit-taking outside of this is considered to be "retail" banking business.</p> | <p>3) Commonwealth owned entities which may conduct financial operations are guaranteed by the Commonwealth Government. While the Commonwealth sold its remaining shareholding in the Commonwealth Bank of Australia (CBA) on 19 July 1996, a transitional Commonwealth guarantee has been provided to all of the liabilities of the CBA. The length of time that the guarantee applies depends on the characteristic of the liability. Transitional guarantees also apply to the former Commonwealth-owned Australian Industry Development Corporation.</p> |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector | Limitations on Market Access  | Limitations on National Treatment   | Additional Commitments |
|----------------------|---|---|------------------------|
|                      | <p>1), 3) A number of State and Territory Governments operate central financing authorities through which the Government's wholly or partly-owned statutory authorities and business enterprises are obliged to borrow (and in some cases invest) their funds, or otherwise obtain certain financial services:</p> <p>SA - South Australian Government Financing Authority, Local Government Finance Authority of South Australia<br/> TAS - Tascorp<br/> NSW - NSW Treasury Corporation<br/> VIC - Treasury Corporation of Victoria<br/> QLD - Queensland Treasury Corporation, Queensland Investment Corporation<br/> NT - Northern Territory Treasury Corporation<br/> WA - Western Australian Treasury Corporation</p> <p>3) The provisions of the <i>Trust Bank (Corporatisation) Act 1997</i> dealing with the Trust Bank of Tasmania may require a joint venture arrangement.</p> <p>3) The Australian Stock Exchange liquid capital requirements for stockbrokers may have the effect of favouring participation in the Exchange by subsidiaries rather than branches of foreign companies.</p> <p>An applicant must be a body corporate in order to obtain approval to conduct a stock exchange or a futures exchange.</p> | <p>1), 3) The financial operations of some State or Territory owned entities may be guaranteed by the State or Territory Governments. A number of State and Territory Governments have also provided transitional guarantees to some of the assets and liabilities of former State-owned or controlled banks.</p> <p>3) The provisions of the Act require that at least a majority of the directors of the Trust Bank be resident in Tasmania and that policy and control of the Trust Bank be exercised in Tasmania.</p> <p>3) A majority of the directors of a stockbroking organisation participating in the Australian Stock Exchange must be Australian residents.</p> |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector  | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|---|--|--|------------------------|
| <p>8. HEALTH-RELATED AND SOCIAL SERVICES</p> <p>B. <u>Other human health services</u><br/>(93199**)</p> <p>Covers podiatry and chiropody services.<br/>Includes podiatry services carried out in health clinics, residential health facilities other than hospitals, as well as in own consulting rooms, patients homes or elsewhere.</p> | <p>4) The temporary entry of specialists in the operation of a financial service supplier established in Australia is permitted subject to the terms stipulated in the horizontal section.</p> <p>1) Unbound<br/>2) None<br/>3) None<br/>4) Unbound except as indicated in the horizontal section.</p> | <p>1) Unbound<br/>2) None<br/>3) None<br/>4) Unbound except as indicated in the horizontal section.<br/>Permanent residency requirement for chiropodists (South Australia).<br/>Permanent residency requirement for podiatrists (Western Australia).</p> |                        |
| <p>9. TOURISM AND TRAVEL RELATED SERVICES</p> <p>A. <u>Hotels and restaurants</u><br/>(641, 642, 643)</p>   | <p>1) Unbound*<br/>2) None<br/>3) None<br/>4) Unbound except as indicated in the horizontal section.</p>   | <p>1) Unbound*<br/>2) None<br/>3) None<br/>4) Unbound except as indicated in the horizontal section.</p>   |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector   | Limitations on Market Access   | Limitations on National Treatment   | Additional Commitments |
|--|--|---|------------------------|
| B. <u>Travel agencies and tour operator services</u><br>(7471) | 1) Commercial presence required<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  |                        |
| C. <u>Tourist guide services</u><br>(7472)                     | 1) None<br>2) None<br>3) None<br>4) Unbound, except as indicated in the horizontal section.                        | 1) None<br>2) None<br>3) None<br>4) Unbound, except as indicated in the horizontal section. |                        |
| 10. RECREATIONAL, CULTURAL AND SPORTING SERVICES               |  |   |                        |
| B. <u>News agency services</u><br>(962)                        | 1) None<br>2) None<br>3) None<br>4) Unbound, except as indicated in the horizontal section.                        | 1) None<br>2) None<br>3) None<br>4) Unbound, except as indicated in the horizontal section. |                        |
| D. <u>Sporting and other recreational services</u>             |  |   |                        |
| Sporting services<br>(9641)                                    | 1) None<br>2) None<br>3) None<br>4) Unbound, except as indicated in the horizontal section.                        | 1) None<br>2) None<br>3) None<br>4) Unbound, except as indicated in the horizontal section. |                        |
| Other recreational services<br>(96491)                         | 1) None<br>2) None<br>3) None<br>4) Unbound, except as indicated in the horizontal section.                        | 1) None<br>2) None<br>3) None<br>4) Unbound, except as indicated in the horizontal section. |                        |
| Covers recreation park and beach services                      |  |   |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector   | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|--|--|--|------------------------|
| <p>11. TRANSPORT SERVICES</p> <p>A. <u>Maritime transport services</u></p> <p>International transport (freight and passengers) (7211 and 7212 less cabotage and offshore transport - as defined in Attachment A)</p> | <p>1) a) Liner Shipping: Part X of the Trade Practices Act 1974 requires that every ocean carrier who provides international liner cargo shipping services to or from Australia shall, at all times, be represented for the purpose of the Act, by a person who is an individual resident in Australia; has been appointed by the ocean carrier as the ocean carrier's agent for the purposes of the Act, and is specified in the register of ocean carrier agents as the ocean carrier's agent.</p> <p>1) b) Bulk, tramp and other international shipping, including international passenger transportation: None.</p> <p>2) None</p> <p>3) a) 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.</p> <p>3) b) Other forms of commercial presence for the supply of international maritime transport services (as defined in Attachment A): None</p> <p>4) a) Ships crews: Unbound except as indicated in the horizontal section.</p> <p>4) b) Key shore personnel: Unbound except as indicated in the horizontal section.</p> | <p>1) a) Part X of the Trade Practices Act 1974 allows Australian flag operators to apply to the Trade Practices Commission to examine whether conference a members and non-conference operators with substantial market power are hindering Australian flag shipping operators from engaging efficiently in the provision of outward liner cargo services to an extent which is reasonable.</p> <p>1) b) None</p> <p>2) None</p> <p>3) a) Unbound</p> <p>3) b) None</p> <p>4) a) Unbound except as indicated in the horizontal section.</p> <p>4) b) Unbound except as indicated in the horizontal section.</p> |                        |



Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector  | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|---|--|--|------------------------|
| International rental of vessels with crew (less cabotage and offshore transport - as defined in Attachment A) | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     |                        |
| Maritime auxiliary services   |  |  |                        |
| Storage and warehousing services (742)  | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| Maritime freight forwarding services (as defined in Attachment A)   | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section      | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section      |                        |
| Preshipment inspection (as defined in Attachment A)   | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     |                        |
| <b>C. <u>Air Transport Services</u></b>   |  |  |                        |
| d) Maintenance and repair of aircraft (8868**)  | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |

Modes of supply:           (1) Cross-border           (2) Consumption abroad           (3) Commercial presence           (4) Presence of natural persons

| Sector or Sub-sector   | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|--|--|--|------------------------|
| <p>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.</p> <p>Computer reservation systems (7523**)</p> | <p>1) None<br/>2) None<br/>3) None<br/>4) Unbound except as indicated in the horizontal section.</p> | <p>1) None<br/>2) None<br/>3) None<br/>4) Unbound except as indicated in the horizontal section.</p> |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector  | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|---|--|--|------------------------|
| <p>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.</p> <p>F. <u>Road transport services</u></p> <p>a) Passenger transportation (71213, 71214, 7122)</p> <p>Does not include regular urban bus services</p> | <p>1) Unbound</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal section.</p> | <p>1) Unbound</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal section.</p> |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector  | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|---|--|--|------------------------|
| b) Freight transportation<br>(71231, 71232, 71233, 71234)     | 1) Unbound<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  | 1) Unbound<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.  |                        |
| G. <u>Pipeline transport</u>                                  |  |  |                        |
| a) Transportation of fuels<br>(7131)                          | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     |                        |
| b) Transportation of other goods (7139)                       | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section.     |                        |
| H. <u>Services auxiliary to all modes of transport</u>        |  |  |                        |
| b) Storage and warehouse services<br>(742 excluding maritime) | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) Unbound*<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |

Modes of supply: (1) Cross-border (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

| Sector or Sub-sector                                  | Limitations on Market Access   | Limitations on National Treatment  | Additional Commitments |
|---|--|--|------------------------|
| c) Freight Forwarding<br>(748 excluding maritime)     | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |
| d) Preshipment inspection<br>(749 excluding maritime) | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. | 1) None<br>2) None<br>3) None<br>4) Unbound except as indicated in the horizontal section. |                        |

## REFERENCE PAPER

### Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

### Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that:

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) use of its position in the market.

## 1. Competitive safeguards

### 1.1 Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

### 1.2 Safeguards

The anti-competitive practices referred to above shall include in particular:

- (a) engaging in anti-competitive cross-subsidization;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services

## 2. Interconnection

2.1 This section applies to linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

## 2.2 Interconnection to be ensured<sup>1</sup>

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided.

- (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates<sup>2</sup>;
- (b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates<sup>3</sup> that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

## 2.3 Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

## 2.4 Transparency of interconnection arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

## 2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- (a) at any time or
- (b) after a reasonable period of time which has been made publicly known

to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

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<sup>1</sup> The interconnection regime to apply in Australia from 1 July 1997 (subject to Parliamentary passage of the necessary legislation) will provide access on terms and conditions which are fair and reasonable to all parties and which do not unfairly discriminate between users. Access rights will be guaranteed by legislation and the terms and conditions of access will be established primarily through processes of commercial negotiation or by reference to access undertakings given by access providers which may draw upon an industry code of practice. Any code of practice and each access provider's undertaking will be subject to approval by the independent regulator.

<sup>2</sup> Non-discrimination is taken to mean on an MFN and National Treatment basis. In the fully competitive market in Australia, the rate at which interconnection is provided is determined by negotiation. Both negotiating parties have recourse to an independent arbitrator which will make a decision based on transparent criteria to ensure that rates are fair and reasonable in the circumstances.

<sup>3</sup> The independent arbitrator may resolve any dispute on what costs are relevant in determining rates (see footnote 2).

3. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. Public availability of licensing criteria

Where a licence is required, the following will be made publicly available:

- (a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence; and
- (b) the terms and conditions of individual licences.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

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## ATTACHMENT A

### DEFINITIONS

1. Cabotage: for the purposes of this Schedule only, 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.

2. Other Forms of Commercial Presence for the Supply of International Maritime Transport Services: for the purposes of this Schedule, means the ability for international maritime transport service suppliers of other Members to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. This commitment shall not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery.

These activities include:

- marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
  - the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inland transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated service;
  - the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
  - the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the Annex on Telecommunications);
  - 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 horizontal commitment on movement of personnel) with any locally established shipping agency;
  - acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.
3. International Rental of Vessels with Crew: rental and/or leasing services of all types of sea-going vessels with crew (such as tankers, bulk dry cargo vessels, cargo and freight vessels) for the purpose of international trade.

4. Maritime 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. Preshipment 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), and/or the customs classification of goods to be exported. Does not include customs or quarantine inspection.

## UNDERSTANDING ON COMMITMENTS IN FINANCIAL SERVICES

Participants in the Uruguay Round have been enabled to take on specific commitments with respect to Financial Services under the General Agreement on Trade in Services (hereinafter referred to as the "Agreement") on the basis of an alternative approach to that covered by the provisions of Part III of the Agreement. It was agreed that this approach could be applied subject to the following understanding:

- i) it does not conflict with the provisions of the Agreement;
- ii) it does not prejudice the right of any Member to schedule its specific commitments in accordance with the approach under Part III of the Agreement;
- iii) resulting specific commitments shall apply on a most-favoured-nation basis;
- iv) no presumption has been created as to the degree of liberalization to which a Member is committing itself under the Agreement.

Interested Members, on the basis of negotiations, and subject to conditions and qualifications where specified, have inscribed in their schedule specific commitments conforming to the approach set out below.

### A. Standstill

Any conditions, limitations and qualifications to the commitments noted below shall be limited to existing non-conforming measures.

### B. Market Access

#### Monopoly Rights

1. In addition to Article VIII of the Agreement, the following shall apply:

Each Member shall list in its schedule pertaining to financial services existing monopoly rights and shall endeavour to eliminate them or reduce their scope. Notwithstanding subparagraph 1 b) of the Annex on Financial Services, this paragraph applies to the activities referred to in subparagraph 1 b) iii) of the Annex.

#### Financial Services purchased by Public Entities

2. Notwithstanding Article XIII of the Agreement, each Member shall ensure that financial service suppliers of any other Member established in its territory are accorded most-favoured-nation treatment and national treatment as regards the purchase or acquisition of financial services by public entities of the Member in its territory.

#### Cross-border Trade

3. Each Member shall permit non-resident suppliers of financial services to supply, as a principal, through an intermediary or as an intermediary, and under terms and conditions that accord national treatment, 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 therefrom; and
  - ii) goods in international transit;
- b) reinsurance and retrocession and the services auxiliary to insurance as referred to in subparagraph 5 a) iv) of the Annex;
- c) provision and transfer of financial information and financial data processing as referred to in subparagraph 5 a) xv) of the Annex and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in subparagraph 5 a) xvi) of the Annex.

4. Each Member shall permit its residents to purchase in the territory of any other Member the financial services indicated in:

- a) subparagraph 3 a);
- b) subparagraph 3 b); and
- c) subparagraphs 5 a) v) to xvi) of the Annex.

#### Commercial Presence

5. Each Member shall grant financial service suppliers of any other Member the right to establish or expand within its territory, including through the acquisition of existing enterprises, a commercial presence.

6. A Member may impose terms, conditions and procedures for authorization of the establishment and expansion of a commercial presence in so far as they do not circumvent the Member's obligation under paragraph 5 and they are consistent with the other obligations of this Agreement.

#### New Financial Services

7. A Member shall permit financial service suppliers of any other Member established in its territory to offer in its territory any new financial service.

#### Transfers of Information and Processing of Information

8. No Member shall take measures that prevent transfers of information or the processing of financial information, including transfers of data by electronic means, or that, subject to importation rules consistent with international agreements, prevent transfers of equipment, where such transfers of information, processing of financial information or transfers of equipment are necessary for the conduct of the ordinary business of a financial service supplier. Nothing in this paragraph restricts the right of a Member to protect personal data, personal privacy and the confidentiality of individual records and accounts so long as such right is not used to circumvent the provisions of the Agreement.

Temporary Entry of Personnel

9. a) Each Member shall permit temporary entry into its territory of the following personnel of a financial service supplier of any other Member that is establishing or has established a commercial presence in the territory of the Member:
- i) senior managerial personnel possessing proprietary information essential to the establishment, control and operation of the services of the financial service supplier; and
  - ii) specialists in the operation of the financial service supplier.
- b) Each Member shall permit, subject to the availability of qualified personnel in its territory, temporary entry into its territory of the following personnel associated with a commercial presence of a financial service supplier of any other Member:
- i) specialists in computer services, telecommunication services and accounts of the financial service supplier; and
  - ii) actuarial and legal specialists.

Non-discriminatory Measures

10. Each Member shall endeavour to remove or to limit any significant adverse effects on financial service suppliers of any other Member of:

- a) non-discriminatory measures that prevent financial service suppliers from offering in the Member's territory, in the form determined by the Member, all the financial services permitted by the Member;
- b) non-discriminatory measures that limit the expansion of the activities of financial service suppliers into the entire territory of the Member;
- c) measures of a Member, when such a Member applies the same measures to the supply of both banking and securities services, and a financial service supplier of any other Member concentrates its activities in the provision of securities services; and
- d) other measures that, although respecting the provisions of this Agreement, affect adversely the ability of financial service suppliers of any other Member to operate, compete or enter the Member's market;

provided that any action taken under this paragraph would not unfairly discriminate against financial service suppliers of the Member taking such action.

11. With respect to the non-discriminatory measures referred to in sub-paragraphs 10 a) and b), a Member shall endeavour not to limit or restrict the present degree of market opportunities nor the benefits already enjoyed by financial service suppliers of all other Members as a class in the territory of the Member, provided that this commitment does not result in unfair discrimination against financial service suppliers of the Member applying such measures.

C. National Treatment

1. Under terms and conditions that accord national treatment, each Member shall grant to financial service suppliers of any other Member established in its territory access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This paragraph is not intended to confer access to the Member's lender of last resort facilities.
2. When membership or participation in, or access to, any self-regulatory body, securities or futures exchange or market, clearing agency, or any other organization or association, is required by a Member in order for financial service suppliers of any other Member to supply financial services on an equal basis with financial service suppliers of the Member, or when the Member provides directly or indirectly such entities, privileges or advantages in supplying financial services, the Member shall ensure that such entities accord national treatment to financial service suppliers of any other Member resident in the territory of the Member.

D. Definitions

For the purposes of this approach:

1. A non-resident supplier of financial services is a financial service supplier of a Member which supplies a financial service into the territory of another Member from an establishment located in the territory of another Member, regardless of whether such a financial service supplier has or has not a commercial presence in the territory of the Member in which the financial service is supplied.
2. "Commercial presence" means an enterprise within a Member's territory for the supply of financial services and includes wholly- or partly-owned subsidiaries, joint ventures, partnerships, sole proprietorships, franchising operations, branches, agencies, representative offices or other organizations.
3. A new financial service is a service of a financial nature, including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of a particular Member but which is supplied in the territory of another Member.

## AUSTRALIA – LIST OF ARTICLE II (MFN) EXEMPTIONS

| Sector or Subsector  | Description of measure indicating its inconsistency with Article II   | Countries to which the measure applies   | Intended duration  | Conditions creating the need for the exemption  |
|----------------------|---|--|--|---|
| Audiovisual Services | Under the Australian Government Co-production programme, Australia maintains preferential co-production arrangements for film and television productions. Official co-production status, which may be granted to a co-production produced under these co-production arrangements, confers national treatment on works covered by these arrangements, including in respect of access to finance and tax concessions and simplified requirements for the temporary entry of skilled personnel into Australia for the purposes of the co-production. | Italy, UK, Canada and France and any other country where cultural co-operation might be desirable and which is prepared to exchange preferential treatment on the terms and conditions specified in the Australian co-production programme | Indefinite   | To promote collaborative efforts between Australian and foreign film producers and general cultural links |
| Audiovisual Services | Measures taken to respond to any unreasonable measures imposed on Australian services or service suppliers by another Member  | Members maintaining MFN exemptions which provide for unreasonable unilateral actions   | This exemption will only be activated in the event of any other Member maintaining exemptions which provide for unreasonable unilateral action | To protect Australia from any unreasonable unilateral actions from other Members                          |